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(21,821 and 21,837.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1909.

No. 595.

JOHN A. KNOTT, H. R. OGLESBY, AND FRANK A. WIGHTMAN, RAILROAD AND WAREHOUSE COMMISSIONERS, AND ELLIOTT W. MAJOR, ATTORNEY GENERAL OF THE STATE OF MISSOURI, APPELLANTS,

vs.

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY.

FILED SEPTEMBER 13, 1909.

No. 611.

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY, APPELLANT,

vs.

JOHN A. KNOTT, H. R. OGLESBY, AND FRANK A. WIGHTMAN, RAILROAD AND WAREHOUSE COMMISSIONERS, AND ELLIOTT W. MAJOR, ATTORNEY GENERAL OF THE STATE OF MISSOURI, ET AL.

FILED SEPTEMBER 22, 1909.

APPEALS FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF MISSOURI.

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2281 †Ex. 1, Sept. 7/06. L. M. E.

Ex. 1.

Chicago, Burlington & Quincy Railway Company.

	1904.	1905.
Total number of Miles operated (June 30th) ..	8,326.16	8,561.64
Miles operated in Missouri "	1,031.89	1,141.79

Statement of Earnings and Expenses in Missouri for the Years 1904 *and* 1905.

Earnings.

1904.

	Local.	Interstate.	Total.
From Freight	$1,525,158.92	$6,199,300.13	$7,724,459.05
From Passenger	1,652,464.42	2,267,707.98	3,920,172.40
From Mail, Express, etc.	541,660.06	705,347.27	1,247,007.33
Gross Earnings.	$3,719,283.40	$9,172,355.38	$12,891,638.78

1905.

From Freight	$1,649,665.73	$6,735,454.71	$8,385,120.44
From Passenger	1,368,745.95	1,661,576.24	3,030,322.19
From Mail, Express, etc.	553,582.75	615,582.26	1,169,165.01
Gross earnings.	$3,571,994.43	$9,012,613.21	$12,583,607.64

Expenses.

	1904.	1905.
Conducting Transportation	$3,852,409.27	$3,862,015.99
Maintenance of Equipment.....	1,337,733.79	1,653,440.56
Maintenance of Road & Structures.	1,635,794.48	1,750,867.36
General Expenses	703,231.94	812,483.64
Taxes	188,751.46	198,415.86
Proportion of Rental	3,169,369.73	2,974,501.50
Total Expenses	$10,887,290.67	$11,251,724.91

Recapitulation.

Gross Earnings	$12,891,638.78	$12,584,607.64
Gross Expenses	10,887,290.67	11,251,724.91
Net Earnings	$2,004,348.11	$1,332,882.73

Ex. 1, p. 1.

[† In pencil in copy.]

2282 Chicago, Burlington & Quincy Railway Co.

Earnings as Reduced Had Traffic of the Character Mentioned in the Act of 1905 *Been Carried at the Prices Therein Named.*

	1904.	1905.
Total revenue received on local business of the classes mentioned in the Act of 1905	$539,270.09	$526,532.72
Total which would have been received therefor had been charged the rates authorized by the Act of 1905	365,499.65	365,410.65
Making a total diminution in revenue	173,770.44	171,122.07
Reduction in percentages of the local business	32.22%	32.49%
The total receipts from all local freight business in Missouri were less diminution in revenue as above	1,351,388.48	1,478,543.66
The expense of local freight business in Missouri computed upon the same basis as the total expenses, were	1,288,049.09	1,474,942.30
Net	*$63,337.39*	*$3,601.36*
†Should be (p. 45)	63,356.69	14,204.68
On the basis of percentages		
Cost of earning each $100		
Extra cost of doing local business as estimated by experts		
Total cost of earning $100 in local traffic		
Local earnings of each $100 as reduced by the Law of 1905		

[† In pencil in copy.]

2283 Chicago, Burlington & Quincy Railway Company.

Statement of C., B. & Q. Earnings in the State of Missouri

And the Effect of the Proposed Rates as Specified in the House Bills Nos. 208 and 35 on State Freight Traffic.

Year 1904.

Commodities.	State. C., B. & Q. Earnings. At present rates.	At proposed rates.	Decrease.	% Decrease.
Grain	68,703.51	55,264.60	15,438.91	19.56
Lime & Flour	25,022.53	19,057.99	5,964.54	23.83
Sale, Cement, etc.	21,029.53	19,209.44	1,820.09	8.65
Lumber, Lath & Shingles	15,601.81	13,120.88	2,480.93	15.90
Ag'l Imps., Wagons, Furniture	3,569.12	2,495.55	1,073.57	30.07
Live Stock	399,799.96	252,050.89	147,748.74	36.55
Stone, etc.	5,543.96	4,300.30	1,243.66	22.43
Total	539,270.09	365,499.65	173,770.44	32 22
Missouri Earnings Local to State	1,525,158.92			
Missouri Earnings on Interstate Business	6,199,300.13			
Total	7,724,459.05			

Auditor of Freight Accounts,
June 1, 1906.
Chicago, Ill.
C., B. & Q. Ry. Co.

Ex. 1, p. 3.

2284

Auditor of Freight Accounts,
June 1, 1906.
Chicago, Ill.
C., B. & Q. Ry. Co.

Chicago, Burlington & Quincy Railway Company.

Statement of C., B. & Q. Earnings in the State of Missouri

And the Effect of the Proposed Rates as Specified in the House Bills Nos. 208 and 35 on State Freight Traffic.

Year 1905.

Commodities.	State. C., B. & Q. Earnings.			
	At present rates.	At proposed rates.	Decrease.	% Decrease.
Grain	73,609.43	57,825.34	15,784.09	21.44
Lime	7,356.67	5,767.21	1,589.46	21.60
Flour	7,022.73	5,411.35	1,611.38	22.94
Sale, Cement, etc.	32,361.24	27,329.55	5,031.69	15.54
Lumber, Lath, Shingles	11,582.62	9,350.98	2,241.64	19.33
Agricultural Implements	1,899.36	1,365.07	534.29	28.13
Wagons	1,896.61	1,166.54	730.07	38.49
Furniture	4,720.44	2,963.22	1,757.22	37.22
Live Stock	373,372.55	233,069.91	140,302.64	37.57
Stone, etc.	12,701.07	11,161.48	1,539.59	12.12
Total	526,532.72	355,410.68	171,122.07	32.49
Total Local Traffic	1,649,665.73			
All Interstate Traffic in Missouri	6,735,454.71			
Local and Interstate	8,385,120.44			

Ex. 1, p. 4.

2285 P. 89. Ex. No. 2 Lease C. B. & Q. R. R. Co. to C. B. & Q. Ry. Co.
(Not furnished to stenographer.)
111. Ex. No. 3 Articles Association C. B. & Q. Ry. Co.
(Not furnished to stenographer.)

2286 Chicago, Burlington & Quincy Railroad Company
to
Chicago, Burlington & Quincy Railway Company.

Lease.

November 20, 1901.

Indenture made on November 20, A. D. 1901, between the Chicago, Burlington & Quincy Railroad Company, a corporation under the laws of the State of Illinois, hereinafter called the Lessor, and the Chicago, Burlington & Quincy Railway Company, a corporation under the laws of the State of Iowa, hereinafter called the Lessee.

Article I.

(*a*) The lessor owns certain lines of railway, hereinafter called the "owned lines," situated in the States of Illinois, Iowa, Missouri, Wisconsin, Minnesota, Nebraska, Wyoming, South Dakota and Montana, having an aggregate length of about 5,443.92 miles, together with stations, yards, side tracks, shops and other usual appurtenances of railways, and an equipment of engines, cars, machinery, tools and furniture for the maintenance and operation of said railways. A list of said lines, which is intended to include all lines of railway owned by the lessor, will be hereto annexed.

(*b*) The lessor also holds leases for terms of long future duration of certain other lines of railway, owned by other companies and hereinafter called the "Lease-hold lines," situated in the States of Nebraska, Iowa, Missouri, Kansas, Colorado and Wyoming, having an aggregate length of about 2,265 miles, together with stations, yards, side tracks, shops and other usual appurtenances of railways, and an equipment of engines, cars, machinery, tools and
2287 furniture for the maintenance and operation of the same. A list of said lines, which is intended to include all lines of railway for which the lessor holds leases, will be hereto annexed.

(*c*) By means of ownership of stocks or bonds, or both, the lessor controls certain other railways, hereinafter called the "controlled lines," situated in the States of Illinois, Iowa, Nebraska, South Dakota and Colorado, having an aggregate length of about 229.35 miles, standard gauge, and about 228.87 miles, narrow gauge. A list of said lines, which is intended to include all lines of railway controlled by the lessor, through ownership by it of stocks or bonds, or both, will be hereto annexed.

(*d*) The lessor also owns or otherwise controls stocks and bonds

of certain bridge, depot and terminal companies. A list of the said stocks and bonds will be hereto annexed.

(*e*) The lessor holds and uses rights to run its trains over the tracks and bridges of other companies, said rights being hereinafter called "trackage rights." A list of the contracts and other instruments conferring such rights will be hereto annexed.

(*f*) The lessor also holds and exercises rights to the use of stations, yards and other terminal facilities belonging to other companies and hereinafter called "station rights." A list of the contracts and other instruments conferring such rights will be hereto annexed.

(*g*) The lessor also owns, jointly or in common with other companies, certain other railways, tracks, structures, and other facilities, hereinafter called "joint properties." A list of said "joint properties" will be hereto annexed.

(*h*) The lessor holds certain unexpired contracts with sundry parties relating to telegraphs, express service, sleeping-car service and other matters connected with the operation of its railways and the transportation business thereon. A list of said contracts will be hereto annexed.

(*i*) There have been issued, and are outstanding at this date, several series of interest bearing bonds some of which are secured by mortgages, or deeds of trust forming liens upon portions 2288 of the railways hereinbefore mentioned. A list of said several series of bonds will be hereto annexed.

(*j*) There are outstanding, in sundry parties, rights to the use of portions of the tracks, and other plant, of the railways hereby leased, created by the grants and contracts of the lessor and its predecessors in interest. A list of the said grants and contracts will be hereto annexed.

Article II.

SECTION 1. The lessor hereby leases to the lessee all and singular the said "owned lines" of railway, referred to in clause (*a*) of Article I together with all the rights, privileges, immunities and franchises appertaining thereto, and all right of way, yard grounds and yards, station grounds and stations, grounds acquired and held for use in connection with the said lines, or any of them, whether acquired or held in the name of the lessor or in the name of some other person or corporation for its use; side tracks, spur tracks, machine shops and repair shops, and the machinery, tools and implements therein, or used in connection therewith; roundhouses, turntables, water-supply plant and equipment; warehouses, depots and the furniture and fixtures thereof; fuel sheds, and all tools, implements and tackle designed for use in connection therewith, stationary and portable engines, locomotive engines, cars of all descriptions, snow plows, steam shovels; electric plants, apparatus and equipment of all descriptions; track tools and engineering tools and instruments; also all buildings owned by the lessor and used for offices, storage or other purposes, with the furniture and fixtures thereof; also all other property, tools, implements, machinery, equipment, fixtures and appurtenances owned by the lessor, and acquired

or held for use in connection with its railways, or any of the same, save as hereinafter excepted.

To have and to hold the same unto the lessee, its successors and assigns, for and during the full period of ninety-nine (99) years from and after twelve o'clock, midnight, of September 30th, A. D. 1901; subject to the rentals, terms, conditions, exceptions and limitations hereinafter set forth.

2289 SECTION 2. The lessor hereby also sublets to the lessee all and singular the said "leasehold lines" mentioned in clause (*b*) of Article I, and assigns to the lessee for the term hereinafter mentioned all the rights of the lessor therein, together with all the rights, immunities and franchises appertaining thereto, and all right of way, yard grounds and yards, station grounds and stations, grounds acquired and held for use in connection with the said lines, or any of them, whether acquired or held in the name of the lessor, or in the name of some other person or corporation for its use; side tracks, spur tracks, machine shops and repair shops, and the machinery tools and implements therein, or used in connection therewith; roundhouses, turntables, water-supply plant and equipment; warehouses, depots and the furniture and fixtures thereof; fuel sheds, and all tools, implements and tackle designed for use in connection therewith; stationary and portable engines, locomotive engines, cars of all descriptions, snow plows, steam shovels, electric plants, apparatus and equipment of all descriptions; track tools and engineering tools and instruments; also all buildings owned by any of the companies owning any of the said "lease-hold lines," and covered by the leases of said lines to the lessor, with the furniture and fixtures thereof; also all other property, tools, implements, machinery, equipment, fixtures and appurtenances owned by the lessor, or covered by any lease to the lessor, and acquired or held for use in connection with the said "Leasehold lines" of railway, or any of them, save as hereinafter excepted.

To have and to hold the same unto the lessee, its successors and assigns, for and during the full period of ninety-nine (99) years, from and after midnight of September 30th, A. D. 1901, unless any lease to the lessor herein of any of said "lease-hold lines" should expire prior to the expiration of the said term; in which event this lease as to such line shall expire simultaneously with that to the lessor herein.

The lessor herein is owner of a majority, or of the whole, of the capital stock of the several companies owning the said "lease-hold lines," and hereby agrees, in case of the expiration of the

2290 lease to it of any of the said lines, prior to the expiration of the said term fixed by this instrument, to cause the company owning the railroad covered by such expired lease to execute a new lease or new leases thereof to the lessee herein covering the unexpired portion of the term fixed by this instrument.

SECTION 3. Until otherwise agreed by the parties hereto, all rolling stock of all kinds hereby leased shall continue to be numbered in accordance with the system of numbers therefor now in use.

All other machinery, tools, implements, furniture and apparatus

coming under the operation of this lease, so far as may from time to time be required by the board of directors or executive committee of the lessor herein, shall have placed and maintained thereon such distinctive marks, to indicate the ownership thereof, as such board or committee shall designate; and all locomotive engines, cars, machinery, tools, implements, furniture or apparatus furnished by the lessee herein for replacing similar articles so leased, shall also be numbered or marked in like manner.

SECTION 4. During the term of the lease made by this instrument, the lessee shall operate the railways hereby leased in a prudent diligent and faithful manner, and in such manner as to furnish reasonable accom-odation to the public, giving due regard to the development of traffic, and shall maintain the leased railways and properties so that the same shall, at all times, be in a state of efficiency at least as high as at the present time, whenever, and as often as may be necessary, renewing and replacing the same, and the several parts thereof, with others at least as efficient for the uses for which the same are kept as those replaced thereby.

The title to each item of property procured or furnished by the lessee, in replacement of a similar item hereby leased, shall at once, and without further act, vest in the owner of the item replaced, and become subject to all liens to which such replaced article was subject at the time of such replacement, if so provided in the instrument or instruments creating such liens.

SECTION 5. Should any item of portable property hereby leased become obsolete or unnecessary or undesirable for use in connection with the maintenance or operation of the leased railways, or
2291 some of them, the lessee may, with the assent of the board of directors or executive committee of the lessor, and with the assent of the trustee or trustees in any mortgage or mortgages covering the same, sell such items at a fair and reasonable price; and in the event of such sale, the proceeds thereof shall belong to the company owning the sold item at the time of sale, and shall, at the request of the lessee herein, if made within a reasonable time, be reinvested in other articles of property, necessary or desirable for use in connection with the leased railways; which articles shall, upon acquisition, belong to the lessor, free and clear of liens, other than such as may have been created by the lessor itself, and shall become subject to this lease.

If the lessee shall fail, within a reasonable time, to request reinvestment, as above stated, of the proceeds of any such sale, such proceeds shall be faithfully applied by the lessor as follows:

Firstly. To retirement, for cancellation, of outstanding bonds secured by mortgages forming liens upon the property sold, at the time of sale, and upon such proceeds, after sale, in order of priority by disposing of such proceeds in the manner provided by such mortgages; or, in absence of such provisions by purchase of such bonds in the open market, or by tender.

Secondly. To retirement, for cancellation, of any other outstanding interest-bearing bonds or forms of obligations for indebtedness of the company owning such item of property at the time of sale,

in manner provided by such bonds, or other obligations, or by any instrument creating a lien securing the same; or, in absence of such provisions by purchase in the open market, or by tender.

All purchases of bonds or other obligations for retirement and cancellation, shall be made under such rules and regulations and in such markets as shall seem most likely to insure the lowest prices and most favorable terms for the bonds, or other obligations, to be purchased; but the judgment of the board of directors or executive committee, as the case may be, of the lessor, shall be final upon all such matters.

SECTION 6. The lessee may make all betterments of and additions to the tracks, structures and plant of the railways hereby leased that may lawfully be required by public authority, or that,
2292 in its own judgment, may be necessary or desirable for the prompt and efficient handling of the traffic of said railways. The title to such part of such betterments and additions as shall be located upon property belonging to an owner of the railways hereby leased, shall vest in such owner; and the fair value of the same to the leased railways, not exceeding the cost of the same to the lessee, shall be repaid by the lessor to the lessee.

SECTION 7. The lease made by this instrument is subject to the liens created by the said trust deeds and mortgages, mentioned in Article I; and also subject to any now existing rights of any person partnership or company, in, to or upon the leased property, or any portion thereof, growing out of any lawful grant or contract made by the lessor or by any of its predecessors in the ownership of any part of the leased properties.

SECTION 8. While the lease made by this instrument remains in force, all the said stock and bonds of the companies owning the "controlled lines" mentioned in clause (*c*) of Article I, now held, or that may hereafter be acquired by the lessor, shall be held and managed by the lessor, for the benefit of the lessee, and none of the said stocks or bonds shall be sold, pledged, or otherwise disposed of, without the written consent of the lessee; and, at all meetings of the stockholders of any of said companies, the stock held by the lessor shall be voted for such persons and for such lawful measures, as the lessee shall, in writing, request.

The lessee shall not, however, without the express consent of the board of directors of the lessor, to be given at a regular or a specially called meeting of such board, direct any vote to be cast for the alienation of the said "controlled lines" or any part thereof, or for the alienation of any other property belonging to any of the said lines, necessary for the proper and efficient handling of the business thereof.

All net income and other benefits accruing to said stock and bonds, during said period, from the operation or other business of the said "controlled lines," shall belong and be paid over to the lessee.

2293 At any time, upon written request of the lessee, the lessor shall cause to be duly executed, by any company owning any part of said "controlled lines," such instrument or instruments

as shall suffice to make the whole or any designated part of the lines of such company a portion of the properties covered by this lease.

The lessee shall cause to be applied to the maintenance of each of the said "controlled lines" so much of the revenue thereof as may be necessary for keeping such line, its equipment and facilities in a state of efficiency for the proper handling of the traffic thereof.

SECTION 9. While the lease made by this instrument remains in force, all the said stocks and bonds of the said bridge, depot and terminal companies, mentioned in clause (*d*) of Article I, now held, or that may hereafter be acquired, by the lessor shall be held and managed by the lessor for the benefit of the lessee, and none of the said stocks or bonds shall be sold, pledged, or otherwise disposed of, without the written consent of the lessee; and, at all meetings of the stockholders of any of the said companies, held during said period, the stock in such company held by the lessor shall be voted for such persons for directors and officers, and for such lawful measures, consistent with the charter of such company, as the lessee shall, in writing, direct.

The lessee shall not, however, without the express consent of the board of directors of the lessor, to be given at a regular or a specially called meeting of said board, direct any vote to be cast for the alienation of any part of the properties of either of the said companies, necessary for the proper and efficient handling of the business thereof.

All net income and other benefits accruing from said stocks and bonds during said period shall belong and be paid to the lessee.

SECTION 10. The lessor also hereby assigns to the lessee all and singular the said "trackage rights" mentioned in clause (*e*) and all the said "station rights" mentioned in clause (*f*) of Article I, for the period of time that the lease of railways made by this instrument shall remain in force, if such "trackage rights" and "station rights" shall continue to exist for that length of time, and, if any of said rights should expire before the expiration of said
2294 lease, then for the full period of the existence of such right.

Said rights shall be held and enjoyed by the lessee, upon like terms and conditions as those under which the same are, by the instruments creating such rights, to be held and enjoyed by the lessor or under such modified terms and conditions as may hereafter be lawfully agreed upon by the parties interested; which terms and conditions the lessee hereby accepts, and agrees to perform and abide by, and to relieve the lessor therefrom, while the lease of railways made by this instrument shall remain in force.

SECTION 11. The lessor also hereby leases to the lessee, for the period of time the lease made by this instrument shall remain in force, all the right, title, interest and share of the lessor, in the said joint properties mentioned in clause (*g*) of Article I; the same to be held and enjoyed by the lessee as parcel of said leased railways, and on like conditions as are hereinbefore expressed in regard to said railways.

SECTION 12. The lessor also hereby assigns and transfers to the

lessee all its right and interest in the said unexpired contracts mentioned in clause (*h*) of Article I; which assignment and transfer the lessee hereby accepts, and assumes all liabilities and obligations that may or can arise under said contracts, or under any of them, during the time the lease of railways made by this instrument shall remain in force, and shall save the lessor harmless on account thereof; and so long as it continues to faithfully fulfill its obligations in this instrument contained, the lessee shall be entitled to realize and enjoy all rights, revenues and other advantages accruing, or that might accrue, to the lessor, through or on account of the same, during the term of said lease.

SECTION 13. The lessor hereby sells and transfers to the lessee all the stocks of fuel and of materials of all kinds, acquired or intended for use or consumption in the maintenance or operation of the railways and property hereby leased, on hand at the date of this instrument, and also all contracts for the purchase of any such fuel or materials, with any and all persons and corporations, existing and unfulfilled at the date of this instrument; and the lessee
2294*a* hereby assumes all obligations of the lessor under said contracts, and shall hold the lessor harmless on account of the same.

Inventories of the said fuel, materials and supplies, and a list of said contracts, shall be prepared in duplicate, as soon hereafter as may be, one copy thereof for the use of the lessor, and the other for the use of the lessee.

As further consideration of the said sale of fuel, materials and supplies, the lessee hereby agrees that, upon the termination of the lease made by this instrument, whether by lapse of time or otherwise, the lessee will return, with the leased railways, to the lessor or its assigns, stocks of fuel, materials and supplies adapted for use in the maintenance and operation of the said railways, equal in value to the said stocks hereby sold and transferred to the lessee.

SECTION 14. The lessor hereby leases and assigns to the lessee any and all other real and personal property not hereinbefore mentioned, of whatever character and wherever situated, the same to be held and used by it pursuant to the terms of this instrument, and the lessee shall be entitled to all the rights, privileges, immunities and franchises of the lessor, except its franchise to be a corporation.

Article III.

SECTION 1. As compensation for the leases hereby made to and the rights hereby conferred upon it, the lessee shall from time to time during the term of the lease made by this instrument, well and faithfully make to or for the lessor, the following-mentioned payments—that is to say:

First. All interest, as the same shall fall due within the said period, for which the lessor, or its property, or any other owner of any of the railways hereby leased, or its property, shall be liable, upon bonds or other obligations now outstanding, or upon bonds or other obligations that may hereafter be issued by the lessor, or by any of said other owners, for the purpose of refunding or paying off

previously issued bonds to a like or a greater amount, or upon bonds or other obligations that may hereafter be issued by the lessor, or by any of said other owners, upon the written request of the lessee, for any purpose whatsoever; but such obligation of the lessee to pay interest shall not extend to any bond or other form of in-
2294*b* debtedness held by the lessor itself, or by any other owner of any of the lines hereby leased. All such payments shall be made in the coin or currency wherein, and at the place or places whereat, such interest is made payable by the instrument providing for the payment of the same. All such payments shall be made directly to the persons and corporations entitled to receive the same.

Second. All contributions, as the same shall become payable during said period, to sinking funds for the retirement of bonds of any of the several series mentioned in clause (*i*) of Article I, required to be paid by the terms of said bonds, or by the terms of any instrument securing payment of the same, to the extent of the deficiency remaining after the application thereto of the items mentioned in Sections 1 and 2 of Article V of this instrument. All such contributions to the sinking funds shall be made by payment directly to the persons or corporations entitled to receive the same, and shall be made in the coin or other currency wherein the same are required to be made by the instrument requiring such payment.

Third. Quarterly, on the first days of January, April, July and October, respectively, in each year during the said period, a sum in the lawful money of the United States, equal to one and three-fourths (1¾) per centum upon the par value of all the shares of the capital stock of the Chicago, Burlington & Quincy Railroad Company now outstanding, or that may hereafter be issued under lawful contracts now existing which require the issuance thereof, and upon such additional shares in said capital stock as may be hereafter issued in compliance with the written request of the lessee. The said sums, when and as received by the lessor, shall be faithfully used by it for the sole purpose of paying, on each of the days aforesaid, a quarter-yearly dividend of one and three-fourths (1¾) per centum upon the par value of the shares in its capital stock then outstanding, as above stated.

Fourth. All valid taxes and assessments, levied or assessed during said period upon the railways and properties hereby leased, or upon the earnings or income thereof, or upon any other properties owned by the lessor, when and as such taxes and assessments shall
2294*c* become due and payable; all such payments to be made directly to the officers or persons lawfully entitled to receive such taxes or assessments, and in the coin or currency in which the same are by law required to be paid.

Fifth. On the first day of each month during the term of this lease, at the office of the lessor in the City of New York, or in the City of Boston, the sum of fifteen hundred dollars ($1,500) or such portion thereof as the board of directors or executive committee of the lessor shall require to be paid, to be used by the lessor for paying the expenses of maintaining its organization, and of the transaction of its necessary business.

Article IV.

SECTION 1. The lessor shall not during the term of the lease made by this instrument, without an express request in writing from the lessee, make or issue any shares of its capital stock, additional to those now outstanding, or to those required to be issued, by lawful contracts now existing.

SECTION 2. The lessor shall not, during the term of the lease made by this instrument, without an express request in writing from the lessee, make or issue any bond, or other obligation for the payment of money, in addition to those now lawfully outstanding, and to those authorized by the several mortgages mentioned in clause (*i*) of Article I, to be hereafter issued, except for the purpose of refunding or paying off previously issued bonds to a like or greater amount; and such additional issues of bonds so at present authorized shall be made and used solely for the purposes prescribed in the several mortgages securing the same.

SECTION 3. The lessor shall, at the request of the lessee, assent to extensions of time limited for the payment of the principal of any of its bonds, or other obligations, and to the renewal thereof, by the issue of the new bonds, or other obligations, not exceeding the principal of those to be retired thereby, secured by new mortgages or deeds of trust upon the railways and properties covered by this lease, or any part thereof, upon reasonable terms, and for any reasonable length of time, not exceeding the term of the lease made by this instrument.

2294*d* The lessor shall, at the request and expense of the lessee, execute and cause to be executed, and issue and cause to be issued, all such new bonds, or other evidences of debt, and all such new mortgages or deeds of trust, upon the said railways and properties, as may reasonably be necessary for the economical and effectual accomplishment of such refunding operations, under such reasonable rules and regulations as it may see fit to adopt for the protection of its own rights and interests in the premises.

Article V.

SECTION 1. All lands granted by the United States, or by any state, to the lessor, or to any other owner of any of the railways hereby leased, and remaining unsold at the date of this instrument and any other real estate owned by the lessor, not otherwise hereinbefore expressly mentioned and provided for, may be sold by the lessor in the customary way and converted into cash; and all moneys remaining unpaid on outstanding contracts for the sale of simil lands shall be collected by it.

The net proceeds of all such sales and collections remaining after payment of expenses of administration shall be applied, as the same shall accumulate, to the following-named purposes:

1. To the satisfaction of the liens, if any, upon the said lands or proceeds.

2. To payment into the sinking funds established by some of the mortgages mentioned in clause (*h*) of Article I not forming liens upon said lands, or their proceeds, or to the retirement, in some

other manner, of bonds of one or more of the classes secured by said mortgages.

3. To the payment of interest upon the bonds mentioned in said clause, or upon some of them.

SECTION 2. For purposes of adjustment of accounts between the parties to this instrument, and of providing for the disposition of current income and assets, and the discharge of current liabilities of the lessor, this instrument shall be deemed to have taken effect as at midnight of September 30th, A. D. 1901.

2294*e* Article VI.

The lessee shall, from time to time, assign to the lessor, for use during the term of the lease made by this instrument, free from rent or other expense to the lessor, office room, properly heated and lighted, suitable for the transaction of its business, in the building used for offices for said railways in Burlington, Iowa, or in the building used for like purposes in Chicago, Illinois, or in both buildings, as the board of directors or executive committee of the lessor shall elect.

The lessee shall also, at all times, during the said period, permit the officers of the lessor, and all its agents duly authorized for the purpose, to have free access to all parts of the railways, and all other property, hereby leased, including all stations, warehouses, machine shops, round houses, tool houses and all other houses or buildings, wherein are kept any of the equipment, machinery or tools hereby leased, or any equipment, machinery or tools supplied by the lessee, for or in replacement of those hereby leased, for the purpose of examining into and ascertaining the condition of such leased property. The lessee shall also, during the said period, permit all officers, agents and employees of the lessor traveling upon its business to ride in the passenger trains of the lessee, free of charge, between all points on the railways hereby leased, under such reasonable rules and regulations as the lessee may from time to time adopt with reference to such transportation.

Article VII.

SECTION 1. If the lessee shall fail to make, in time and manner as in this instrument provided, any of the payments of money which by this instrument it has agreed to make or shall fail to perform or fulfill, or to cause to be performed or fulfilled, any duty or obligation imposed by law upon the corporation owning or operating the lines of railway hereby leased, for failure to perform or fulfill which duty or obligation the said railways, or any portion thereof, or any of their appurtenances or equipment essential for the proper operation or maintenance thereof, or their franchises, would or
2294*f* might become liable to seizure or forfeiture; and, if such default shall continue for the period of six (6) months, or in event of the lessee being or becoming in a state of declared insolvency, if such defaults shall exist for a period of sixty (60) days; or, if at any time during the term of the lease made by this instrument, the lessee shall fail or refuse to maintain and operate, or cause

to be maintained and operated, either of the railways, with the equipment thereof, which it has agreed to maintain and operate in manner by this instrument provided, and such default shall continue after the expiration of a reasonable time for compliance with the valid final award of any board of arbitrators, constituted and acting in pursuance of the provisions hereof, or for compliance with the final order or judgment of any court of competent jurisdiction, requiring the doing by the lessee of the act or acts, the omission to do which shall have constituted such default; in every such case, the lessor may, at its option, waive such default, or rescind this instrument, and re-enter into and resume possession, control, and ownership of all railways and properties hereby leased. The remedies reserved to the lessor by this Article shall be deemed cumulative only, and shall not deprive the lessor of the right to resort to any other remedy that shall be afforded by the laws, nor of the right to use such other remedies simultaneously and concurrently with the remedies afforded by this Article.

The rescission by the lessor of this instrument shall not excuse the lessee from the obligation to pay any sum of money which has become payable by it, before the date of such rescission.

SECTION 2. If there shall remain upon the grounds hereby leased at the time of any rescission of this instrument, made as provided in the next preceding section, any permanent tracks structures or other improvements, placed there originally by the lessee, and not by way of replacement of tracks, structures, or plant existing thereon at the date hereof, for which the lessee shall not previously have been paid, the lessor shall pay the actual and fair value thereof, for use in connection with the leased railways, not in any event exceeding the actual, original cost thereof.

2294*g* Such payment shall be made:

First. To the holder or holders of any lien or liens upon the leased property, or the interest of the lessee therein, or upon such track, structure or improvement, for labor or materials furnished to the lessee for constructing or maintaining the said track, structure or improvement.

Secondly. To the lessee, to the extent of any residue remaining after payment of such liens.

Any dispute arising between the parties interested concerning the fair value of any such track, structure, or improvement, shall be submitted to, and be decided by, arbitration, as provided by Article VIII of this instrument.

Article VIII.

Any and all questions that shall or may arise, touching the construction of this instrument, or any part thereof, or the rights of the parties thereunder, or covering the business, or manner or mode of transacting the business, to be carried on under the provisions thereof, upon which the parties cannot agree, shall be submitted to the arbitrament and award of a board of three (3) disinterested persons experienced in railway management one to be selected by the lessor, its successors or assigns, and one by the lessee, its successors or assigns. If either party shall refuse or neglect to appoint

an arbitrator within twenty (20) days after written notice from the other of its appointment of an arbitrator on its part, the arbitrator so appointed by the party so giving such notice may, and shall, select and appoint a disinterested person, experienced in railway management, to act as arbitrator for, and on behalf of, the party so notified and refusing or neglecting to appoint. The two thus appointed shall select a third, and the board so appointed shall hear and determine the matter in controversy, upon reasonable notice to both parties of the time and place of hearing; and the decision and award of said board, or of any two of them, in the premises, shall be binding and conclusive upon said parties, their successors
2294*h* and assigns, with respect to the matter submitted to and decided by, them.

Article IX.

Any difference or controversy that may in good faith arise between the parties hereto as to the construction or carrying out of this instrument, or the rights of the parties thereunder, or the transaction of business under the provisions thereof, shall not interrupt the performance of the agreements therein contained or the continuance of business thereunder; but such business shall continue to be transacted and settlements and payments made thereunder in the same manner in which the same had been transacted and made prior to the arising of such difference or controversy; and thereupon such payments or restitutions shall be made by the respective parties as may be required by the decision of the arbitrators.

Article X.

The leases and other transfers made by this instrument shall be subject to determination by the lessor at will at any time after the shares in the capital stock of the lessor, held by the Trustee in a certain indenture, bearing date July 1, A. D. 1901, made by the Northern Pacific Railway Company and the Great Northern Railway Company jointly to the Standard Trust Company of New York, as Trustee shall have been sold because of any default by the last named companies in the requirements of said indenture, or at any time after said shares shall have been retaken by the holders of the said bonds secured thereby, pursuant to the provisions of said indenture.

Article XI.

The provisions of this instrument shall be binding upon and shall inure to the benefit of the successors and assigns of the lessor and lessee respectively.

Article XII.

The lessor agrees that it will from time to time, upon the request of the lessee, make and execute any additional assignment, supplemental lease or assurance, and perform any act, that may be required to carry into effect this lease according to its true in-
2294*i* tent and meaning, and hereby authorizes the lessee, in the management and use of the demised property, or for any

lawful purpose in connection therewith, to use the corporate name, seal and franchises of the lessor.

In testimony whereof, the parties hereto have caused this instrument to be subscribed by their respective Presidents or Vice-Presidents, and to be sealed with their respective corporate seals, attested by the signatures of their respective Secretaries, on the day and year last above written.

[SEAL.] CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY,
(Signed) By GEO. B. HARRIS, *President.*

Attest:
(Signed) T. S. HOWLAND, *Secretary.*

[SEAL.] CHICAGO, BURLINGTON & QUINCY RAILWAY COMPANY,
(Signed) By W. W. BALDWIN, *President.*

Attest:
(Signed) H. E. JARVIS, *Secretary.*

2294*j* STATE OF NEW YORK,
County of New York, ss:

Be it remembered, that on this 20th day of November, A. D. 1901, before me, a Notary Public in and for said County and State, personally appeated Geo. B. Harris, President of the Chicago, Burlington & Quincy Railroad Company, a corporation organized and existing under the laws of the State of Illinois, personally known to me, and to be the same person whose name is subscribed to, and who executed, the foregoing instrument as such President, who, being by me duly sworn, did say that he is President of the said Chicago, Burlington & Quincy Railroad Company; that he knows the corporate seal of said Company; that the seal affixed to the foregoing instrument is the corporate seal of said Company; that it was affixed by order of the Board of Directors of said Company; that said instrument was signed and sealed in behalf of said corporation by like order as President of said Company; and the said Geo. B. Harris acknowledged said instrument, and that it was the free and voluntary act and deed of said corporation, and that he, as such President signed, sealed, delivered and executed said instrument as the free and voluntary act and deed of said Company, and his own free and voluntary act and deed as such President, for the uses and purposes therein set forth.

My commission expires March 30th, 1903.

In witness whereof, I have hereunto set my hand and official seal this 20th day of November, A. D. 1901.

[SEAL.] (Signed) GEO. H. COREY,
Notary Public in and for said County and State.

STATE OF NEW YORK,
County of New York, ss:

Be it remembered, that on this 20th day of November, A. D. 1901, before me, a Notary Public in and for said County and State, personally appeared W. W. Baldwin, President of the Chicago, Burlington & Quincy Railway Company, a corporation organized and existing under the laws of the State of Iowa, personally known to me, and to be the same person whose name is subscribed to
2294*k* and who executed the foregoing instrument as such President, who being by me duly sworn, did say that he is President of the said Chicago, Burlington & Quincy Railway Company; that he knows the corporate seal of said Company; that the seal affixed to the foregoing instrument is the corporate seal of said Company; that it was affixed by order of the Board of Directors of said Company; that said instrument was signed and sealed in behalf of said corporation by like order as President of said Company; and the said W. W. Baldwin acknowledged said instrument, and that it was the free and voluntary act and deed of said corporation, and that he, as such President, signed, sealed, delivered and executed said instrument as the free and voluntary act and deed of said Company, and his own free and voluntary act and deed as such President, for the uses and purposes therein set forth.

My commission expires March 30th, 1903.

In witness whereof, I have hereunto set my hand and official seal this 20th day of November, A. D. 1901.

[SEAL.] (Signed) GEO. H. COREY,
Notary Public in and for said County and State.

2294*l* Chicago, Burlington & Quincy Railroad Company
to
Chicago, Burlington & Quincy Railway Company.

Supplemental Lease.

November 20, 1901.

Supplemental Indenture, made on November 20, A. D. 1901, between the Chicago, Burlington & Quincy Railroad Company, a corporation under the laws of the State of Illinois, hereinafter called the Lessor, and the Chicago, Burlington & Quincy Railway Company, a corporation under the laws of the State of Iowa, hereinafter called the Lessee.

Article I.

(*a*) This Indenture is executed simultaneously with a principal indenture between the same parties, of which a copy is hereto annexed and is to be understood, and to have the same force and effect, as if the provisons of this indenture had been incorporated with those of the said principal indenture, in the same instrument.

(*b*) The lessor is owner of, or otherwise controls, the following-mentioned shares of stock and bonds and notes of corporations, not mentioned in the said principal indenture, to-wit:

Toledo, Peoria and Western Railway Company, Twenty-four thousand eighty-eight and one-half (24,088½) shares of stock;

Davenport, Rock Island and Northwestern Railway Company, fifteen thousand (15,000) shares of stock;

Burlington, Cedar Rapids and Northern Railway Company, fourteen thousand and fifty-eight (14,058) shares of stock;

Tabor and Northern Railway Company, fifty thousand dollars ($50,000) in bonds;

Burlington Elevator Company, of Peoria, one hundred and fifty (150) shares of stock, and fifteen thousand dollars ($15,000) in bonds;

2294*m* St. Louis and Kansas City Land Company, one thousand (1,000) shares of stock and about one million two hundred and fifty thousand dollars ($1,250,000) in notes;

Union Elevator Company, of Council Bluffs, four hundred and sixty-seven (467) shares of stock;

Union Express Company, ten (10) shares of stock;

Union Land Company, one hundred and twenty (120) shares of stock and notes to the amount of about five thousand dollars ($5,000);

Wapello Coal Company, six thousand eight hundred (6,800) shares of stock, and four hundred and five thousand dollars ($405,000) of bonds.

Article II.

SEC. 1. As a further consideration for the obligations assumed by the lessee in the said principal Indenture, it is hereby agreed between the parties that, while the said principal Indenture remains in force, all the said stocks, bonds and notes mentioned in clause (*b*) of Article I shall be held and managed by the lessor for the benefit of the lessee.

So far as shall be consistent with existing contracts for the management of said stocks, or any of them, at all meetings of stockholders of any of said companies that shall be held during said period, the stock in such company held by the lessor shall be voted for such persons for directors and officers, and for such lawful measures, consistent with the charter of such company, as the lessee shall, in writing, direct. The lessee shall not, however, without the express consent of the board of directors of the lessor, direct any vote to be cast for the alienation of any part of the properties of either of the said companies necessary for the efficient handling of the business thereof.

All net income and other benefits accruing from said stocks and bonds during said period shall belong and be paid over to the lessee.

SEC. 2. The principal of any of the said bonds or notes that may be paid off, in whole or in part, shall belong to the lessor;

2294*n* and, at the option of the lessee, shall either be reinvested in other properties to become subject to the provisions of the said principal Indenture or be applied by the lessor to the same purposes as those provided in Section 1 of Article V of the said principal

Indenture for the application of the proceeds of granted and other lands.

In Testimony Whereof, the parties hereto have caused this instrument to be subscribed by their respective Presidents or Vice-Presidents, and to be sealed with their respective corporate seals, attested by the signatures of their respective Secretaries, on the day and year first above written.

[SEAL.] CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY,
(Signed) By GEO. B. HARRIS, *President.*

Attest:
(Signed) T. S. HOWLAND, *Secretary.*

[SEAL.] CHICAGO, BURLINGTON & QUINCY RAILWAY COMPANY,
(Signed) By W. W. BALDWIN, *President.*

Attest:
(Signed) H. E. JARVIS, *Secretary.*

2294*o* STATE OF NEW YORK,
County of New York, ss:

Be it remembered, that on this 20th day of November, A. D. 1901, before me, a Notary Public in and for said County and State, personally appeared Geo. B. Harris, President of the Chicago, Burlington & Quincy Railroad Company, a corporation organized and existing under the laws of the State of Illinois, personally known to me, and to be the same person whose name is subscribed to, and who executed, the foregoing instrument as such President, who, being by me duly sworn, did say that he is President of the said Chicago, Burlington & Quincy Railroad Company; that he knows the corporate seal of said Company; that the seal affixed to the foregoing instrument is the corporate seal of said Company; that it was affixed by order of the Board of Directors of said Company; that said instrument was signed and sealed in behalf of said corporation by like order as President of said Company; and the said Geo. B. Harris acknowledged said instrument and that it was the free and voluntary act and deed of said corporation, and that he, as such President signed, sealed, delivered and executed said instrument as the free and voluntary act and deed of said Company, and his own free and voluntary act and deed as such President for the uses and purposes therein set forth.

My commission expires March 30th, 1903.

In witness whereof, I have hereunto set my hand and official seal this 20th day of November, A. D. 1901.

[SEAL.] (Signed) GEO. H. COREY,
Notary Public in and for said County and State.

STATE OF NEW YORK,
County of New York, ss:

Be it remembered, that on this 20th day of November, A. D. 1901, before me, a Notary Public in and for said County and State personally appeared W. W. Baldwin, President of the
2294*p* Chicago, Burlington & Quincy Railway Company, a corporation organized and existing under the laws of the State of Iowa, personally known to me, and to be the same person whose name is subscribed to, and who executed, the foregoing instrument as such President, who, being by me duly sworn, did say that he is President of the said Chicago, Burlington & Quincy Railway Company; that he knows the corporate seal of said Company; that the seal affixed to the foregoing instrument is the corporate seal of said Company; that it was affixed by order of the Board of Directors of said Company; that said instrument was signed and sealed in behalf of said corporation by like order as President of said Company; and the said W. W. Baldwin acknowledged said instrument, and that it was the free and voluntary act and deed of said corporation, and that he, as such President, signed, sealed, delivered and executed said instrument as the free and voluntary act and deed of said Company, and his own free and voluntary act and deed as such President, for the uses and purposes therein set forth.

My commission expires March 30th, 1903.

In witness whereof, I have hereunto set my hand and official seal this 20th day of November, A. D. 1901.

[SEAL.] (Signed) GEO. H. COREY,
Notary Public in and for said County and State.

2295 STATE OF MISSOURI.

[Cut.]

DEPARTMENT OF STATE.

To all to whom these presents shall come:

I, Cornelius Roach, Secretary of State of the State of Missouri, and Keeper of the Great Seal thereof, hereby certify that the annexed pages contain a full, true and complete copy of the certified copy of articles of association of the "Chicago, Burlington & Quincy Railway Company" a corporation under the laws of Iowa, and the several affidavits relating thereto in compliance with the laws of this State, filed Oct. 31st, 1901; and of the certificate authorizing said company to do business in Missouri, issued on the date aforesaid, as the same appears on file and of record in this office.

In Testimony Whereof, I hereunto set my hand and affix the Great Seal of the State of Missouri: Done at the City of Jefferson, this 13th day of July, A. D. Nineteen Hundred and nine.

[SEAL.] CORNELIUS ROACH,
Secretary of State.
FRED G. PARK,
Chief Clerk.

STATE OF MISSOURI,
City of St. Louis, ss:

John H. Carroll, on oath, states that he is the General Agent of the Chicago, Burlington & Quincy Railway Company, a corporation duly incorporated under the laws of the State of Iowa on October 17, 1901, having a duration of fifty (50) years, with power of renewal, and of perpetual duration, and a copy of its Charter, or Articles of Association, is filed herewith; that the principal
2296 officer of said company in Missouri, who represents the corporation in said State is John H. Carroll, General Agent, and that the public office of said company, or place for the transaction of its business in the State of Missouri, is located in the Globe-Democrat Building in the City of St. Louis; that the amount of capital stock of said corporation is One Hundred Million Dollars ($100,000,000); and the proportion of the capital stock of said corporation which is represented by the property located and business transacted in the State of Missouri is One Thousand Dollars.

J. H. CARROLL,
General Agent.

Subscribed and sworn to before me this 31st day of October, 1901. My commission expires March 3, 1902.

[SEAL.] JOHN A. LEE,
Notary Public.

STATE OF IOWA,
County of Des Moines, ss:

Affidavit.

I, William W. Baldwin, do solemnly swear that I am the President of the corporation known and styled Chicago, Burlington & Quincy Railway Company, duly incorporated under the laws of the State of Iowa, on the seventeenth day of October, 1901, and now transacting or conducting business in the State of Missouri, and that I am duly authorized to represent said corporation in the making of this affidavit. And I do further solemnly swear that the said Chicago, Burlington & Quincy Railway Company, known and styled as aforesaid, has not, since the 20th day of June, 1897, created, entered into or become a member of or a party to any pool, trust, agreement, combination, confederation or understanding with any other corporation, partnership, individual, or any other person or association of persons, to regulate or fix the price of any article of manufacture, mechanism, merchandise, commodity, convenience, repair, any product of mining, or any article or thing whatsoever, or the price or premium to be paid for insuring property
2297 against loss or damage by fire, lightning or storm, and that it has not entered into or become a member of or a party to any pool, trust, agreement, contract, combination or confederation to fix or limit the amount or quantity of any article of manufacture, mechanism, merchandise, commodity, convenience, repair,

any product of mining, or any article or thing whatsoever, or the price or premium to be paid for insuring property against loss or damage by fire, lightning or storm, and that it has not issued and does not own any trust certificates, and for any corporation, agent, officer or employé, or for the directors of stockholders of any corporation, has not entered into and is not now in any combination, contract or agreement with any person or persons, corporation or corporations, or with any stockholder or director thereof, the purpose and effect of which said combination, contract or agreement would be to place the management or control of such combination, or combinations, or the manufactured product thereof, in the hands of any trustee of trustees with the intent to limit or fix the price or lessen the production and sale of any article of commerce, use or consumption, or to prevent, restrict or diminish the manufacture or output of any article; and that it has not made or entered into any arrangement, contract or agreement with any person, association of persons or corporation designed to lessen, or which tends to lessen, full and free competition in the importation, manufacture or sale of any article, product or commodity in this State, or under the terms of which it is proposed, stipulated, provided, agreed or understood that any particular or specified article, product or commodity shall be dealt in, sold or offered for sale in this State to the exclusion, in whole or in part, of any competing article, product or commodity.

WILLIAM W. BALDWIN, *President.*

Subscribed and sworn to before me, a Notary Public within and for the County of Des Moines, this twenty-eighth (28) day of October, 1901. My commission expires July 4, '03.

[SEAL.] H. E. JARVIS,
Notary Public.

2298 *Articles of Incorporation of the Chicago, Burlington & Quincy Railway Company.*

The undersigned, J. C. Peasley, J. M. Dering, J. A. Connell, W. W. Baldwin and E. M. Shelton, hereby incorporate themselves into a body corporate under the laws of the State of Iowa, and adopt the following Articles of Incorporation:

I.

The name of the corporation shall be Chicago, Burlington & Quincy Railway Company. Its principal place of business shall be at Burlington, Des Moines County, State of Iowa.

II.

The business to be transacted by the corporation shall be to construct, or to purchase, lease or otherwise acquire, and to maintain and operate, a railroad extending from the City of Chicago, in the State of Illinois, to Burlington, in the State of Iowa, and thence

across the State of Iowa, to Plattsmouth, in the State of Nebraska, and also to the cities of St. Louis, Kansas City, St. Joseph, Omaha, St. Paul, Denver, Cheyenne, Billings, and other points in the States of Illinois, Iowa, Missouri, Kansas, Nebraska, Colorado, Wyoming, South Dakota, Montana, Wisconsin and Minnesota, with various branches and extensions in the States aforesaid; and particularly to lease, purchase, or otherwise acquire, the railroad and property, rights, privileges, immunities and franchises of the Chicago, Burlington & Quincy Railroad Company, a corporation of the State of Illinois; also to extend said lines of railroad above mentioned and described, and to build branches therefrom, and to aid other railroad corporations now or hereafter organized under the laws of any State or Territory, or of the United States, in the construction and equipment of their roads or otherwise; and, in the said States
2299 above named, and in other States and Territories of the United States, to construct, equip, and operate other railroads, and acquire other railroads and their franchises, by lease, purchase, consolidation or otherwise, and to exercise and enjoy therein all the powers, rights, privileges and franchises of railroad corporations organized under the laws thereof, or of the United States; also to subscribe for, purchase, hold, own, use, sell, pledge or guarantee, the stocks, bonds and other securities of any railroad corporation of the United States, or of any State or Territory, and particularly of said Chicago, Burlington & Quincy Railroad Company.

III.

The authorized capital stock of the company shall be One Hundred Million Dollars ($100,000,000.00) with power to increase the same from time to time to any amount that may be necessary for the purpose of effecting the objects of the corporation.

The stock shall be divided into shares of One Hundred Dollars ($100.00) each, to be paid at such times and upon such conditions as may be prescribed by the board of directors.

The corporation may begin business when stock to the amount of Ten Thousand Dollars ($10,000.00) has been subscribed.

IV.

The corporation shall commence on the fifteenth day of October, 1901, and shall continue for fifty (50) years, with the right of renewal and perpetual succession.

V.

The affairs of the corporation shall be conducted by a board of five (5) directors, but the said number may at any time hereafter be increased to any number not exceeding eleven (11). The directors shall be elected at a meeting held at the office of the company in Burlington, Iowa, on the first Wednesday in November, 1901, and on the same day of each year thereafter,—of which the stockholders shall take notice.

The above named incorporators shall serve as directors until

the first stockholders' meeting, or until their successors shall be elected and qualified.

2300 Vacancies in the Board of Directors may be filled by the remaining directors.

The board of Directors may hold its meetings and transact any of the business of the corporation either at Burlington, Iowa, or Chicago, Illinois, or at such other places as may be determined upon by the Board of Directors.

The Board of Directors shall have the power to elect a President, Vice-President, Secretary and Treasurer, and such other officers as they may determine upon.

VI.

The highest amount of indebtedness of the corporation shall not exceed two-thirds ($\frac{2}{3}$) of the amount of the capital stock of the company.

VII.

Private property of the stockholders of the corporation shall be exempt from the corporate debts.

VIII.

By-laws, for the management of the business of the company, may be adopted, altered and amended, by the Board of Directors.

IX.

These articles may be changed or amended from time to time by a vote of a majority of the stockholders and in such manner as may be provided by law.

In Witness Whereof, the said persons have hereunto set their hands this fifteenth day of October, A. D. 1901.

W. W. BALDWIN.
J. M. DERING.
J. A. CONNELL.
E. M. SHELTON.
J. C. PEASLEY.

STATE OF ILLINOIS,
County of Cook, ss:

On this fifteenth day of October, A. D. 1901, before me
2301 personally appeared J. C. Peasley, J. M. Dering, J. A. Connell, W. W. Baldwin and E. M. Shelton, to me known to be the persons named in, and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

[SEAL.] HERBERT HAASE,
Notary Public in and for said County.

STATE OF IOWA,
Des Moines County:

Filed for record this 16 day of Oct. 1901, A. D., at 3 o'clock P. M., and recorded in Book 3, page 216, of Articles of Incorporation.

T. H. McCONNELL, *Recorder.*

Fees, $—.

STATE OF IOWA, *ss:*

Filed for record in the office of Secretary of State Oct. 17th, A. D. 1901, and recorded in Book M-3, page 303.

W. B. MARTIN,
Secretary of State.
D. A. HITES, *Deputy.*

THE STATE OF IOWA,
Secretary of State:

I, W. B. Martin, Secretary of State of the State of Iowa, do hereby certify that the foregoing instrument is a true and correct copy of the Articles of Incorporation of the Chicago, Burlington & Quincy Railway Company, filed October 17th, A. D. 1901, as the same appears of record in this office.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of the Secretary of State of the State of Iowa. Done at Des Moines, the Capital of the State, October 22, 1901.

2302 [SEAL.] W. B. MARTIN,
Secretary of State.

I, H. E. Jarvis, Secretary of the Chicago, Burlington & Quincy Railway Company, a corporation of the State of Iowa, do hereby certify that the foregoing instrument is a true and correct copy of the Articles of Incorporation of said company.

In testimony whereof, I have hereunto set my hand and affixed the seal of said company, this 24th day of October, A. D. 1901.

[SEAL.] H. E. JARVIS, *Secretary.*

Filed and certificate issued Oct. 31, 1901.

SAM B. COOK,
Secretary of State.

STATE OF MISSOURI:

No. 769.

Certificate.

Whereas, the Chicago, Burlington & Quincy Railway Company, incorporated under the laws of the State of Iowa, has filed in the office of the Secretary of State duly authenticated evidence of its incorporation, as provided by law, and has, in all respects, complied with the requirements of law governing foreign private corporations,

Now, therefore, I, Samuel B. Cook, Secretary of State of the State of Missouri, in virtue and by authority of law, do hereby certify that said Chicago, Burlington & Quincy Railway Company

is from the date hereof duly authorized and licensed to do business in the State of Missouri for a term ending October 17th, 1951, and is entitled to all the rights and privileges granted to foreign corporations under the laws of this State, and that the amount of the capital stock of said corporation is One Hundred Million Dollars, and the amount of said capital stock represented in the State of Missouri is One Thousand Dollars.

2303 In testimony whereof, I hereunto set my hand and affix the Great Seal of the State of Missouri. Done at the City of Jefferson, this 31st day of October, A. D. Nineteen Hundred and One.

[SEAL.] SAM B. COOK,
Secretary of State.

STATE OF MISSOURI,
County of Cole, ss:

John H. Carroll on his oath states that he is the General Agent of the Chicago, Burlington & Quincy Railway Company, a corporation duly incorporated under the laws of Iowa on October 17, 1901, having a duration of fifty years, with power of renewal and of perpetual duration: That a copy of its charter and articles of association was filed in the office of the Secretary of State of the State of Missouri on the 31st day of October, 1901, on which day the Secretary of State issued to said Chicago, Burlington & Quincy Railway Company a license authorizing it to do business in the State of Missouri. At the date of the filing of the charter and articles of association aforesaid, the proportion of the capital stock of said corporation which was represented by the property located and business transacted in the State of Missouri was $1,000. The said Chicago, Burlington & Quincy Railway Company has leased for a term of 99 years all the property of the Chicago, Burlington & Quincy Railroad Company.

That the principal officer of said Chicago, Burlington & Quincy Railway Company in Missouri, who represents the corporation in said State, is John H. Carroll, General Agent, and that the public office of said company or place for the transaction of its business in the State of Missouri is located in the Globe-Democrat Building, in the City of St. Louis. That the amount of capital stock of said corporation is $100,000,000 and the proportion of the capital stock of said corporation which is represented by the property located and business transacted in the State of Missouri is $12,800,000.

2304 J. H. CARROLL,
General Agent.

Subscribed and sworn to before me, a Notary Public for Cole County, Mo., this the 8th day of January, 1902.

My term expires Mch. 3, 1902.

[SEAL.] JOHN A. LEE,
Notary Public.

Filed Jan. 8, 1902.
SAM. B. COOK,
Secretary of State.

2305 *Statement of Operating Expenses, by Classes of Service, State of Missouri, Year Ending December* 31, 1904.

	Freight.	Passenger.
Station Service	$954,191.28	$333,980.64
Train Service	348,619.58	241,089.48
Engine Service	1,119,184.80	494,038.32
Contingencies	256,098.17	111,243.98
Total Conducting Transportation.	2,678,093.83	1,180,352.42
Maintenance of Equipment	993,008.66	322,550.24 72,320(2) etc.†
Maintenance of Road & structures	789,943.92	686,156.42 151289 under.†
General Expenses	386,888.22	328,837.64
Total	4,847,934.63	2,517,896.72
Grand Total		$7,365,831.35

To Mr. G. I. Sturgis, General Auditor, Building.
Office of Auditor of Expenditures, Chicago, September 14, 1906.

Exhibit 4, Sept. 20/06.

L. M. E.†

2306 Chicago, Burlington & Quincy Railroad Company.

	Year ending June 30, 1901.	% op. exp. to gr. e'gs.	3 months to Oct. 1, 1901.	% op. exp. to gr. e'n'gs.
Gross Earnings	$49,655,066.63		$14,263,107.19	
Oper. Expenses	32,072,237.33	65	8,422,620.03	59
Taxes	1,543,476.24		201,995.54	

Chicago, Burlington & Quincy Railway Company.

	Nine months 10/1/01–6/30/02.	% op. exp. to gr. e'gs.	Year ending June 30, 1903.	% op. exp. to gr. e'gs.
Gross Earnings	$38,647,811.26		$61,647,596.72	
Oper. Expenses	24,848,860.14	64	37,742,439.23	61
Taxes	1,357,687.09		1,748,095.32	

	Year ending June 30, 1904.	% op. exp. to gr. e'gs.	Year ending June 30, 1905.	% op. exp. to gr. e'gs.
Gross Earnings	$64,011,468.18		$65,162,858.02	
Oper. Expenses	41,423,906.14	65	41,479,169.43	64
Taxes	1,862,181.53		1,840,627.35	

General Auditor's Office, Chicago, Sept. 20th, 1906.

Ex. 5, Sept. 21/06.†

[† In pencil in copy.]

Statement of Operating Expenses in Accounts, Year Ending December 31, 1905.

Station Service.

No.	Name of Account.	Freight.	Passenger.	Total.
1.	Station Agents, clerks and laborers	$344,539.37	$85,002.97	$429,542.34
2.	Station Supplies	59,633.23	9,566.38	69,199.61
3.	Station Furniture	1,018.49	991.66	2,010.15
4.	Switchmen, flagmen, and Watchmen	263,887.26	28,313.04	292,200.30
5.	Switching	251,318.34	54.50	251,372.84
7.	Telegraph Expenses	73,022.78	78,966.20	151,988.98
8.	Proportion of Operating Expenses of Terminals	6,377.81	146,616.05	152,993.86
9.	Operation of Leased Lines	49.63	.26	49.89
	Total Station Ser.	$999,846.91	$349,511.06	$1,349,357.97

Train Service.

10.	Freight Conductors	$118,354.84	.....	$118,354.84
11.	Passenger Conductors	.....	$73,381.77	73,381.77
12.	Freight Brakemen	163,370.96	.....	163,370.96
13.	Passenger Brakemen	.....	46,725.57	46,725.57
14.	Passenger Baggagemen	.....	20,211.67	20,211.67
15.	Freight Train Supplies and Expenses	20,996.88	.....	20,996.88
16.	Passenger Train Supplies and Expense	.....	17,263.95	17,263.95
17.	Heating & lighting Cars	426.29	35,082.49	35,508.78
18.	Oiling cars	18,168.48	4,012.74	22,181.22
19.	Cleaning Passenger Cars	.....	41,294.50	41,294.50
	Total Train Service	$321,317.45	$237,972.69	$559,290.14

Engine Service.

20. Engineers and Firemen	$334,980.28	$174,973.49	$529,953.77
21. Engine Dispatchers, Wipers and roundhouse laborers...	74,891.39	47,295.62	122,187.01
22. Fuel for Locomotives	550,410.84	232,329.81	782,740.65
23. Oil, Tallow & Waste	16,098.13	9,941.02	26,039.15
24. Other Supplies for Locos	7,334.60	5,205.35	12,539.95
25. Water Supply	21,408.66	27,458.88	48,867.54
Total Engine Service	$1,025,123.90	$497,204.17	$1,522,328.07

Exhibit 6, page 1.

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Contingencies.

26. Damage and Loss Freight	$124,354.29	.....	$124,354.29
27. Damage and Loss Baggage	.....	$837.69	837.69
28. Damage to Property	8,805.18	6,948.20	15,753.38
29. Stock killed or Injured	3,848.23	8,105.79	11,954.02
30. Personal Injury	38,944.17	18,107.69	57,051.86
31. Wrecking	13,545.25	2,044.55	15,589.80
32. Car Mileage Balance	92,134.50	4,855.90	87,295.60
33. Hire of Equipment	3,490.07	1,396.61	2,093.46
34. Superintendence	61,814.00	49,684.13	111,498.13
36. Expenses Dining cars	.....	7,427.54	7,427.54
37. Expenses Buffet Cars	.....	176.26	176.26
38. Other transportation expenses	606.86	584.84	1,191.70
Total Conducting Transportation	340,582.41	90,457.40	431,039.81
	$2,686,870.67	$1,175,145.32	$3,662,015.99

Maintenance of Equipment.

No.	Name of Account.	Freight.	Passenger.	Total.
39.	Repairs of Passenger Cars		$122,797.65	$122,797.63
40.	Repairs of Freight cars	$655,327.02	.....	655,327.02
41.	Repairs of Work cars	9,434.04	9,962.14	19,396.18
42.	Repairs of Locomotives	304,057.17	145,346.50	449,403.67
43.	Other Equipment Expenses	6,399.17	7,620.71	14,019.88
44.	Supervision Equipment	22,135.47	23,860.69	45,996.16
	Total Maintenance of Equipment	$997,362.87	$309,587.69	$1,306,940.56

Maintenance of Road and Structures.

45.	Removal of Snow & Ice	$7,643.83	$7,169.38	$14,813.21
46.	Repairs of Roadway & Track	307,969.29	311,101.94	619,071.23
47.	Repairs of Tunnels	6.42	3.46	9.88
48.	Repairs of Cribbing and Bulkheading	5.51	4.84	9.35
49.	Repairs of Bridges and Culverts	64,546.29	67,679.07	130,225.36
50.	Cattle Guards, Road Crossings and Track signs	3,807.15	4,179.17	7,986.32
51.	Renewals of rails	21,328.92	19,971.91	41,300.83
52.	Renewals of Ties	77,987.86	74,581.19	152,569.05
53.	Renewals of Fastenings	8,598.69	8,468.54	17,067.23
54.	Renewals of Frogs, Switches and Miscellaneous Track Material	17,530.91	16,056.55	33,587.46
55.	Maintenance of Leased Lines	4.71	.....	4.71

56. Repairs of Fences	$6,029.25	$6,430.62	$12,459.87
57. Repairs of Snow fences and snow sheds	33.67	20.74	54.41
58. Repairs of Buildings	48,766.95	38,166.88	84,933.03
59. Repairs of Water Supply	7,529.34	8,061.78	15,591.12
60. Repairs of Docks, Wharves, Landings and Inclines	2.64	6.22	8.86
61. Repairs of Telegraph	11,670.62	11,357.19	23,027.81
62. Repairs of Shop Tools and machinery	10,633.55	16,603.95	27,237.50
Total Maintenance Road & Structures	$592,086.18	$587,862.43	$1,179,948.61

General Expenses.

63. Traffic Department Expenses	$60,497.36	$49,181.09	$109,678.45
64. Outside agencies	67,329.98	52,949.91	120,279.89
65. Advertising	45.18	43,509.93	43,555.11
66. Salaries and Expenses of General Officers	40,851.79	43,233.11	84,084.90
67. Salaries of Clerks	77,141.33	63,409.67	140,551.00
68. General Office Expenses	9,610.47	10,034.87	19,645.34
69. Legal Expenses	28,488.34	28,835.56	57,023.90
70. Rent of Buildings, yards, tracks, and Terminals	36,221.33	62,565.58	98,786.91
71. Insurance	29,241.47	17,414.43	46,655.90
72. Stationery & printing	38,921.90	25,471.04	64,392.94
73. Miscellaneous	13,688.03	14,141.27	27,829.30
Total General Expenses	$402,037.18	$410,446.46	$812,483.64

2310 Northern Pacific Railway Company.

A.—*Estimated Loss under Proposed Tariffs.*

A statement has been prepared showing for the months of April and October, 1905, the earnings received on business local to Minnesota and between Minnesota and Dakota points under existing tariffs; what would have been received under the proposed tariffs and the less accruing therefrom. The months named are taken as typical months, and, it is believes, together show approximately what the result would be for a year. On this basis the following estimated annual losses would be suffered by the Northern Pacific Railway if the proposed rates become effective:

On Minnesota business.....	$210,829.44 or 20.37%
On Minn.-Dakota ".....	15,866.52 or 7.13%
Total.....	$226,695.96 or 18.03%

B.—*Relative Cost of Transporting Through and Local Freight.*

Sundry comparisons have been made herein of the cost of what may be called the variable elements of expense in handling and transporting through and local freight respectively. By variable elements is meant those items that are largely and manifestly affected by the character and volume of the traffic. It is not attempted herein to build up a total cost per ton per mile, but rather to make such a comparison as would help in determining whether the proposed reduction in rates are reasonable.

In considering this question, the cost of Maintenance of Way and structures has been omitted for the reason that it is impossible first, to determine even approximately the proportion of such cost applicable to the operation of any short period; and, second, because it is impossible to distribute such cost between freight and passenger business, much less between through and way trains.

2311 The group of accounts known as "General Expenses" has also been omitted, as they bear no direct relation to the conduct of any particular class of traffic.

The comparison made herein is based on what is known as "Cost of Conducting Transportation" (special calculations being made for what is known as "terminal expense") and "Maintenance of Equipment" (using, not the charges for any specific period, but a proportion of cost based on experience, and taking into consideration the interest on the value of the property used exclusively for repairs and maintenance of locomotives and cars).

C.—The unit of cost used in stating the relative items has been the Gross Ton Mile, as this represents the load that has to be moved whether cars are loaded or empty. The final results have been stated in cost per Net Ton Mile—i. e. the ton of paying freight carried one mile.

In order to arrive at the transportation expenses a statement of the operation of main line way freights for the months of April and October, 1905, was drawn off, securing data as to mileage, tonnage, cost, etc.

We have no record of the average haul of through freight. The average haul for the entire road of all freight during the last fiscal year was 334 miles; the average haul of business local to Minnesota in 1905 was 110 miles and these figures have been used herein.

D.—Our train schedules show that the average distance per day covered by way freights is about 40% less than through freights. The results for April and October show a cost per way freight train mile of 10.58% in excess of through freights, so these figures may, for comparative purposes, be tabulated as follows:

2312	Through freights.	Local freights.
Train movement cost unit*...	.60 cts. + 10.58%	.6635 cts.
Gross train load—tons.....	1187.6	801.2
Comparative cost per 1000 Gross Ton mls.....	$0.5052	$0.8281

The average weight of contents of cars in through freights was found to be 37,600 pounds, (this is lower than our present average for the whole road) and a test during the present month shows that contents of merchandise cars in less than car load lots in Minnesota average 5,550 pounds.

Our report to the State of Minnesota shows that empty freight car mileage was 35% of loaded car mileage for the fiscal year ending June 30, 1905, *i.* e. that for every hundred loaded cars hauled there were thirty-five empty ones.

---

* Engine, train and telegraph service, fuel and contingencies.

E.—Compensation for Use of an Engine is Figured as Follows:

Way freights:

Value of engine $14,000@5% per annum.....		$700.00
Depreciation: 5% per annum.....		840.00
Use of plant (including shop buildings, machinery, tools, side tracks, roundhouses and stock of material, estimated at $6,000,000@5% per annum apportioned to 915 engines		327.87
		$1,867.87
Value per mile based on 30,000 miles per annum	6.22¢	
Average repairs per engine mile, fiscal year 1905	6.83¢	
	13.05¢	

Through freights:

Value of engine $17,000@5% per annum		$850.00
Depreciation @6% per annum		1,020.00
Use of plant (as above)		327.87
		$2,197.87
Value per mile based on 30,000 miles per annum	7.33¢	
Average repairs per engine mile fiscal year 1905	6.83¢	
	14.16¢	

2313 F.—Compensation for Use of Cars is Figured as Follows:

Estimating the value of a car in Merchandise service car $750.00; car repairs at .324¢ per mile, and that all cars average about 30 miles per day, we get the following representing the value of one car per day:

5% interest per annum on value	$37.50
6% depreciation as per M. C. B. Rule	45.00
Use of plant (including shop buildings, machinery, tools, side tracks—including detached repair tracks—and stock of material, estimated at $2,000,000 at 5% per annum apportioned to 37,500 cars	2.60
	$85.10

Which equals per car per day	23.31¢
Repairs 30 miles @.324¢	9.72¢
Making a total interest, depreciation, and repair charge per day of	33.03¢
An average of 30 miles per day would yield a rate per car mile of	1.101¢

G.—*Terminal Service.*

The cost per ton for terminal service, including interest on the fair valuation of the property, is based on results at the St. Paul freight house and yard, which are used by the Northern Pacific, Minn. & St. Louis and Soo Line, and on which we have a record of the rentals paid for the use of the property. The average cost per ton is found to be approximately 78.76¢, and assuming that this class of service could not be performed at stations along the line for less than it costs at St. Paul, where the volume of business is heavy, the cost for merchandise within the state would be approximately 8¢ per Cwt. for what is commonly called "station service." This is made up as follows:

2314 Warehouse freight:	Per ton.
Cost of handling, including use of property	55.16¢
Cost of office work, billing, etc	4.82
Cost of switching	18.78
Total Approximate cost	78.76¢
Car load freight:	Per car.
Cost of switching, including use of property	71.41¢
Cost of office work, billing, etc	4.74
Total approximate cost	76.15¢
On the basis of double handling the approximate cost per cwt. would be	8.cts.

Relative Cost of 100 *Cars, Through and Local Freight—Example* # 1.

Applying the foregoing data to 100 cars of each class of freight the following comparison is reached:

100 cars of through freight:	Tons.	
Weight of cars—16 tons	1,600	
35% for empties	560	
Contents at 18.8 tons	1,880	
Gross Weight	4,040	
Train movement cost:		
4,040 tons 334 miles produces 1,349,360 Gross Ton Miles at $0.5052 per 1000 miles		$681.70
Use of engine:		
Average gross train load of through freight is 1,187.6 divided into 1,349,360 produces 1,135 Engine miles 1,135 Engine miles at 14.16 cents		160.72
Use of cars:		
Use of cars, including 35% for empty movement 45,090 miles at 1.101¢		496.45
Terminal service:		
Switching 3 times—405 cars at 71.41¢		289.21
Office work—100 shipments x 2—200 at 4.734¢		9.47
Total Cost		1,637.55
Contents 1,880 tons x 334 miles produces 627,920 ton miles, making comparative cost per ton one mile—for handling & moving		.2608 cts.

2315 100 cars of local freight:

	Tons.	
Weight of cars—16 tons	1,600	
35% for empties	560	
Contents at 9.75 tons	975	
Gross weight	3,135	
Train movement cost:		
3,135 tons 110 miles produces 344,850 Gross Ton miles at 82.81¢ per 1000 miles		$285.57
Use of engine:		
344,850 Gross Ton Miles divided by average train load of 801.2 tons produces:		
430 engine miles at 13.05	$56.11	
Add 40% for extra time on road	22.44	
		78.55
Use of cars:		
100 cars 110 miles 11,000		
35% for empties 3,850		
14,850 at 1.101¢	$163.50	
Add 40% for extra time on road	65.40	
		228.90
Terminal service:		
Switching 135 cars x 2—270 at 71.41¢		192.81
Warehouse handling 975 tons x 2—1,950 at 55.16¢		1,075.61
Office work—1950 tons at 4.82¢		93.99
Total cost		$1,955.44
Contents 975 tons x 110 miles produces 107,250 ton miles, making comparative cost per ton per mile		1.8233¢
Through business cost		0.2608¢
Percentage of cost of local business to through business		669.1%

2316 *Business Covered by Proposed* Trafiis—*Example* # 2.

The business out of St. Paul under the tariffs at issue for April and October, 1905, combined was:

Less than carload freight	7,383,092 lbs.
The average carload for this class of business as per test made in March, 1906, was	5,350 "
This business therefore required about	1,380 cars
Car load business was	3,873,161 lbs.
Loaded into	133 cars
An average load per car of	29,121 lbs.
Total freight was	5,628 tons
Number of cars used, computed as above	1,513
Average load per car	7,440 lbs.
Tons one mile	916,419
Average haul	162.8 mls.

These figures would produce the following cost:

	Tons.	
1,513 cars at 16 tons each	24,208	
35% for empties	8,472	
Contents	5,628	
Gross Weight	38,308	
Movement cost:		
38,308 tons 163 miles produces 6,244,204 Gross Ton Miles at 82.81¢ per 1000 miles		$5,170.82
Use of engine:		
6,244,204 Gross Ton Miles divided by average train load of 801.2 tons produces:		
7,794 Engine Miles at 13.05¢	$1,017.12	
Add 40% for extra time on road	406.84	
		1,423.96
Use of cars:		
1,513 cars 163 miles	246,619	
Add 35% for empties	86,317	
	332,936 at 1.101¢	3,665.63
Add 40% for extra time on road		1,466.25
Terminal service:		
Switching 1,513 cars twice—3,026 at 71.41		2,160.87
Warehouse expense, L. C. L. freight handled twice 3,691.5 x 2—383 tons at 55.16¢		4,072.46
Office work—133 car loads x 2—266 at 4.74¢		12.61
Office work—warehouse freight twice—7,383 tons at 4.82¢		355.86
Total comparative cost		$18,328.46

Comparative cost per mile (916,419 Ton Miles)	2.0000 cts.
Comparative cost of through business	0.2608 "
Percentage of cost of through business	766.%

2317 *Less Than Carload Business (First 4 Classes) Out of St. Paul in April and October, 1905—Example # 4.*

	Tons.
1,380 cars at 16 tons (See Example # 2)	22,080
35% for empties	7,728
Contents	3,692
Gross Weight	33,500

Movement Cost:

33,500 tons 135.4 miles produces 4,535,900 Gross Ton Miles at 82.81¢ per 1000 miles		$3,756.18

Use of Engine:

4,535,900 Gross Ton Miles divided by average train load of 801.2 produces:

5,661 Engine Miles at 13.05¢	$738.76	
Add 40% for extra time on road	295.50	
		1,034.26

Use of Cars:

1,380 cars 135.4 miles	186,852	
Add 35% for empties	65,398	
	252,250 at 1.101¢	2,777.27
Add 40% for extra time on road		1,110.91

Terminal Service:

Switching 1,380 cars twice—2,760 at 71.41¢	1,970.92
Warehouse expense at each end, 3,691.5 x 2—7,383 tons at 55.16¢	4,072.46
Office work—7,383 tons at 4.82¢	355.86
Total Comparative Cost	$15,077.86

Comparative cost per mile (499,824 Ton Miles)	3.0166 cts
Comparative cost of through business	0.2608 "
Percentage of cost of through business	1156.7%

In conclusion, especial attention is called to the fact that these comparisons are based on Main Line operation, Branch Line Operation having been excluded on account of mixed train service. The mileage of the Northern Pacific in Minnesota is:

Main Line	572.68	or 59.3%
Branches	392.91	or 40.7%
	965.59	100%

The freight density, i. e. tons one mile per mile of road, on the branches is less than one tenth of that on the main line, and this, together with the higher cost of operation on the branches, has a serious effect on net results.

Rates Charged in Missouri that the Dickinson Law Would Have Permitted a Greater Charge For.

Commodity.	From—	To—	Distance.	Rate charged.	Could have charged.
Salt	Hannibal	Louisiana	27	3.5c	5.5c
"	"	Ilasco	3	$5.00	5.
Cement	"	"	3	5.00	5.
Stone	Elsberry	Hannibal	52	2.5c	4.
"	"	St. Louis	61	2.5	4.
"	"	Macon	123	5.	5.75
Wheat	Robertson	Liberty	5	$5.00	5.
"	Kearney	Holt	6	5.00	5.
Stone	Bear Creek	Hannibal	6	1.c	2.
"	Halsey	St. Joseph	3	1.	2.
Lumber	Yarrow	Gifford	3	3.5	5.
Wheat	Orch. Farm	St. Louis	27	4.	5.5
Lumber	Elsberry	"	61	5.	6.
Flour	St. Joseph	Kansas City	63	5.	6.
Salt	"	"	63	2.5	6.
Stone	Kan. City	St. Joseph	63	4.	4.‡
Lumber	"	"	63	3.	6.
Lime	Hannibal	Winfield	63	4.	6.
Ag. Imps	Tarkio	St. Joseph	67	8.	9.
Lumber	St. Louis.	Annada	68	5.	6.
"	Saxton	Kansas City	69	5.	6.
Grain	St. Joseph	Utica	71	5.	6.
Stone	Birm'ghm	St. Joseph	73	3.	4.5
"	St. Joseph	Westboro	74	4.	4.5
"	Breck'rdge	Carrollton	76	3.5	4.5

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Commodity.	From—	To—	Distance.	Rate charged.	Could have charged.
Lumber	St. Louis	Clarksville	77	5.	6.5
Salt	"	"	77	4.	6.5
Flour	"	"	77	6.	6.5
Lumber	Savannah	Kansas City..	78	5.	6.5
Stone	Elsberry	Mexico	81	3.¼	4.¾
"	"	Canton	85	4.	4.¾
Cement	St. Louis	Louisiana	87	4.	6.5
Lumber	"	"	87	5.	6.5
Lime	"	"	87	3.	6.5
Stone	"	"	87	3.	4.¾
Lumber	Kan. City	Forest City	92	5.	6.5
Stone	Hannibal	Brookfield	104	4.	5.¼
Wagons	Gregory	Brewster	109	6.	11.
Cement	Ilasco	St. Louis	110	4.	7.
"	St. Louis	Mexico	110	6.	7.
Stone	Elsberry	Clarence	111	5.	5.5
Grain	Hannibal	St. Louis	113	6.	7.
2319 Lumber	Hannibal	St. Louis	113	4.	7.
Lime	"	"	113	4.	7.
Flour	"	"	113	6.	7.
Cement	"	"	113	4.	7.
Stone	St. Louis	Hannibal	113	5.	5.5
Cement	"	"	113	4.	7.
Lumber	"	"	113	5.	7.
Grain	Hale	St. Joseph	113	4.5	7.
"	Kansas City	Skidmore	122	6.	7.
Lumber	"	Langdon	125	5.	7.
"	St. Louis	Palmyra	125	7.	7.5

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Grain	Quitman	Kansas City	128	6.5	7.5
Cement	Ilasco	Mexico	130	5.¾	7.5
"	St. Louis	La Grange	139	7.	7.5
"	"	Monroe	143	7.	7.5
Lumber	Canton	St. Louis	146	5.	7.5
Stone	Elsberry	Brookfield	156	6.	7.5
Lumber	Kansas City	Carrollton	156	6.5	8.
"	St. Louis	Alexandria	162	5.	8.
Cement	Kansas City	Unionville	170	6.	8.
Lumber	Canton	Macon	184	7.5	8.5
"	St. Joseph	Palmyra	192	7.5	8.5
"	St. Louis	Bucklin	217	8.5	9.
Cement	Hannibal	Birmingham	216	7.	9.

Rates shown in cents are per hundred pounds.
" " " dollars " " cars.

Ex. 8, p. 1 to 2.

2320 Ex. 9, I. G. RAWN.

Comparative Cost of "Local Freight Train Operation" and "Through Freight Train Operation."

Basis: Through Train District—Centralia to Mounds:
Local Train District—Centralia to Du Quoin:
Du Quoin to Mounds.

Average Tonnage of Freight Trains, Fiscal Year 1906.

Fast Freight Trains	871 tons
Slow " "	1078 "
Mixed " "	186 "
Local " "	390 "

Train Operation Cost (Exclusively).

	Local 1000 train miles.		Through 1000 train miles.
Wages: Enginemen	$100.00		$67.60
" Conductors and 3 brakemen	172.20	(2)	63.70
Roundhouse Labor	20.00		10.00
	$292.20		$161.30

The cost of Miscellaneous supplies including coal, about the same; through train handling more tonnage, local train doing switching and station work.

On basis of tonnage statistics for the fiscal year above indicated it cost in local service (exclusive of overtime) 80 per cent more to handle 276% less tonnage than handled in average through trains; in other words, in train operation expense exclusively it cost 356% more to handle freight in Local service than in Through service.

In addition to this the through train covers the district with one engine in one-half the time two engines usually cover the district where turn-around runs are involved; in other words, Through service requires 7½ engine hours' service as against 14 hours in Local service, and in this manner comparatively consumes much more power.

The average tonnage per car in Local service is about 33½% less than the tonnage per car in Through service, thus requiring in local service one-third more car capacity to handle same tonnage handled in through service, which, in addition to the value of the car equipment, means that in Local service the percentage of revenue tonnage to tare tonnage (weight of cars) is much less than in Through service.

The switching expense at initial terminal is much greater per ton in Local service than in Through service on account of the shorter haul in Local service; i. e., the switching expense per car at an initial terminal in making up local and through trains is about

the same, but the local shipment may be hauled only 20 miles as against 200 miles in through service.

2321 The station labor at initial terminal per ton mile is also much greater in Local Service than in Through service for the same reason given in regard to switching expenses.

The employment of intermediate station labor is largely consequent upon local train service.

The liability of injury to train employés is greater in Local service than in Through service on account of injuries incident to station switching, and loading and unloading local freight at stations.

The construction and maintenance of additional side track facilities, platform facilities, etc., at small intermediate stations are largely consequent upon local train service.

It is necessary in many instances to construct and maintain roundhouses, turn-tables, etc., and maintain roundhouse forces at intermediate points where locals turn.

It is necessary in some cases to construct and maintain additional water supply facilities in order to meet the requirements of local train service.

2322 Bonds Outstanding June 30, 1906.

June 30, 1906.

C. B. & Q.	5's	of 1903	9,000,000.00	
" Ia. Div..	5's	of 1919	2,329,000.00	
" " " ..	4's	of 1919	7,712,000.00	
" ..	4's	of 1921	4,300,000.00	
" ..	4's	of 1922	7,968,000.00	
" Neb. Ext.	4's	of 1927	24,791,000.00	
" Ill. Div..	3½'s	of 1949	50,835,000.00	
" " "	4's	of 1949	34,165,000.00	
				141,100,000.00
B. M. Neb. Cons. Mtge.	6's	of 1908	13,650,000.00	
" " " "	4's	of 1910	3,347,000.00	
Rep. Valley R. R....	6's	of 1919	1,078,000.00	
				18,075,000.00
H. & St. J. R. R.....	6's	of 1911	8,000,000.00	
K. C. St. J. & C. B. R.R.	7's	of 1907	5,000,000.00	
Tarkio Valley R. R..	7's	of 1920	144,000.00	
Nodaway Valley " ..	7's	of 1920	128,000.00	
				13,272,000.00
Atch. & Neb. R. R.	7's	of 1908	1,125,000.00	
Linc. & No. West. R.R.	7's	of 1910	600,000.00	
				1,725,000.00
				174,172,000.00

Ex. 10, L. M. E. Ex. 10.

Ex. 11. L. M. E.

Chicago, Burlington and Quincy Railway Company.

Missouri Rate Case.

1904.

Arbitrary Charges to Replacement Fund.

	Total.	Mo. prop'n.	Basis.
Kansas City Bridge.....	$100,000.00	$100,000.00	All in Missouri.
Rep'rs Locomotives.....	70,000.00	13,720.00	Locomotive mileage in Missouri to total loco. mileage year ending Dec. 31, 1904.
" Freight Cars.....	20,000.00	3,520.00	Fr't car " " " " " fr't car " " " " " "
" Pass'ng'r cars.....	30,000.00	5,400.00	Pass. " " " " " pass. car " " " " " "
" Tools & machinery.	67,000.00	11,993.00	All car & loco. " " " " " all car & loco. " " " " " "
" Roadway	176,111.62		Track mileage in Missouri to total track mileage for year ending Jun. 30, 1904.
Renewal rails.....	95,000.00		" " " " " " " " " " " " " "
Rep'rs Buildings.....	45,000.00	45,841.00	" " " " " " " " " " " " " "
" track fastenings....	25,000.00		" " " " " " " " " " " " " "
" water supply.....	25,000.00		" " " " " " " " " " " " " "
" telegraph	25,000.00		" " " " " " " " " " " " " "
Total	$678,111.62	$180,474.00	
		1905.	
Kansas City Bridge.....	$550,000.00	$550,000.00	All in Missouri.
Rep'rs Freight cars.....	1,500,000.00	255,000.00	Freight car mileage in Missouri to total fr't car mileage year ending Dec. 31, 1905.
" Locomotives.....	500,000.00	91,500.00	Locomotive " " " " " locomotive " " " " " "
" shop tools.....	121,620.65	20,918.75	All car & loco. " " " " " all car & loco. " " " " " "
	$2,671,620.65	$917,418.75	

General Auditor's Office, Chicago, Sept. 3, 1906.

Statement of Miscellaneous Earnings for Year Ending December 31st.

	1904.		1905.		
	Total of system.	Missouri prop'n.	Total of system.	Missouri prop'n.	Basis.
Mail Earnings	$2,272,590.33	$273,450.40	$2,302,782.13	$285,063.32	Actual where routes are all in Missouri, and mileage proportion of interstate routes.
Express	1,266,903.50	229,752.65	1,348,397.57	242,586.77	Per cent. based on freight earnings.
Telegraph	159,800.72	17,638.35	176,363.45	18,849.41	" " " Telegraph business each state.
Switching	878,971.10	137,959.55	941,066.52	126,705.78	Actual location.
Rents	565,454.62	272,094.39	632,838.13	292,933.80	Bldgs. actual location, Eng's & Work cars, Revenue train Mileage, Fr't Cars, Fr't car mileage, Pass. Cars, Pass. car mileage.
Excess baggage & Storage.	242,217.69	65,283.53	240,236.41	50,361.28	Ex. Bag. % based on ticket Eng's storage of Bagg. Actual location.
Milk Traffic	201,977.61	31,475.50	251,313.48	37,410.48	Track mileage, point shipment to destination.
Car Service	107,207.11	32,808.50	125,380.06	21,059.21	Actual location.
Sundry earnings	325,626.68	186,544.46	277,257.34	94,194.96	Actual location and per cents. added to bills on Revenue Train Mileage.
(Kansas City and Quincy Bridge Tolls and rents, Storage of Fr't, Profit on Labor and material furnished outside parties.)					
Total	$6,020,729.36	$1,247,007.33	$6,295,635.09	$1,169,165.01	

General Auditor's Office, Chicago, Sept. 6th, 1906.

Ex. 12.

2325 Chicago, Burlington & Quincy Railway Co.

The Following Statement Shows Traffic Handled in the Years 1904 *and* 1905 *by the C. B. & Q. Ry. Co. at a Less Rate Than Authorised by the Act of* 1905, *Showing Amounts Actually Earned and What Would Have Been Earned Had the Company Charged the Maximum Rates as Authorized by the Act of* 1905.

1904.

Class.	Commodity.	Earnings at rates charged.	Earnings at maximum rates authorized by act of 1905.	Increase in maximum rates over rates actually charged.
D.	Grain	$34,038.25	$48,011.66	$13,973.41
D.	Corn, Oats, Barlet & other grain..	20,540.43	28,906.20	8,365.77
E.	Lime	1,001.99	1,390.67	388.68
E.	Flour	9,969.66	14,616.17	4,646.51
F.	Sale, Cement, &c..	47,367.39	76,963.75	29,596.36
G.	Lumber, Lath, &c.	15,323.39	21,376.30	6,052.91
I.	Agricultural Implements and Wagons	2,217.88	3,036.08	818.20
I.	Furniture	2,598.41	3,440.85	842.44
J.	Sand	2,324.71	2,765.52	440.81
J.	Stone & Clay.....	14,348.41	21,200.76	6,852.35
	Total	$149,730.52	$221,707.96	$71,977.44

1905.

D.	Grain	$28,220.24	$33,733.31	$5,513.07
E.	Lime	1,845.70	4,349.94	2,504.24
E.	Flour	1,863.32	2,190.21	326.89
F.	Salt, Cement, &c..	26,893.80	48,586.87	21,693.07
G.	Lumber, Lath, &c.	10,332.13	15,386.41	3,064.28
I.	Agricultural Implements &- ...	1,892.76	2,669.32	776.56
	Wagons	109.88	125.81	15.93
H.	Horses and Mules.	368.83	416.72	47.89
H.	Cattle	143.55	192.45	48.90
H.	Hogs	238.12	289.71	51.59
H.	Sheep	492.17	628.61	136.44
J.	Stone, Crushed Rock, Sand, &c.	22,152.45	32,496.05	10,343.60
	Total	$94,542.95	$139,065.41	$44,522.46

2326 Miles.		In dollars and cents per 100 pounds.							In dollars and cents per car of standard length.			
		Ag'l imp'ts.	Wheat.	Flour.	Other grain.	Lumber.	Salt.	Lime and cement	Horses and mules.	Cattle and calves.	Hogs.	Sheep
25	Dickinson Bill	7	5	5	5	5	5	5	6.00	6.00	6.00	6.00
	Iowa Distance Tariff	6	5.3	5.3	4.43	4.14	3.81	3.81	13.74	12.73	10.50	10.00
	Illinois Distance Tariff	6.8	4.9	4.9	4.4	4.6	*15.4	4.4	13.49	12.35	10.08	8.40
	Kansas Distance Tariff	10	6	6	5	6.5	7½	6	18.70	14.35	13.60	12.10
	Nebraska Distance Tariff	10	6	6	5	7	6	7	17.00	16.40	16.00	9.90
	Interstate	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
50	Dickinson Bill	8	5.5	5.5	5.5	5.5	5.5	5.5	9.00	9.00	9.00	9.00
	Iowa Distance Tariff	7.05	6.3	6.3	5.25	4.9	4 51	4.5	17.50	16.49	13.00	12.00
	Illinois Distance Tariff	8.7	6.1	6.1	5.5	5.7	*18.6	5.4	16.15	14.73	12.60	10.60
	Kansas Distance Tariff	15	8	8	6.5	8	11	7	24.20	19.47	19.20	16.50
	Nebraska Distance Tariff	16	8.5	8.5	6.5	8	9	9	22.00	21.53	21.60	13.20
	Interstate	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
75	Dickinson Bill	9	6	6	6	6	6	6	11.00	11.00	11.00	11.00
	Iowa Distance Tariff	8	7.3	7.3	6	5.6	5.2	5.2	21.24	19.00	15.24	14.00
	Illinois Distance Tariff	10.2	7.3	7.3	6.6	6.9	*20.7	6.3	18.24	16.53	14.84	12.70
	Kansas Distance Tariff	20	8.5	8.5	7.5	11	13	8	29.70	24.60	24.80	19.80
	Nebraska Distance Tariff	21	11	11	9	11	11⅓	12	27.00	26.65	26.40	16.50
	Interstate	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....

* Salt per barrel, 310 lbs. per bbl.

Miles.		In dollars and cents per 100 pounds.							In dollars and cents per car of standard length.			
		Ag'l imp'ts.	Wheat.	Flour.	Other grain.	Lumber.	Salt.	Lime and cement	Horses and mules.	Cattle and calves.	Hogs.	Sheep
100	Dickinson Bill	10	6.5	6.5	6.5	6.5	6.5	6.5	13.00	13.00	13.00	13.00
	Iowa Distance Tariff	9	8.1	8.1	6.75	6.3	5.85	5.85	25.00	21.50	16.44	16.00
	Illinois Distance Tariff	11.7	8	8	7.3	7.8	*22.7	7	19.76	18.05	16.38	14.40
	Kansas Distance Tariff	24	10.5	10.5	8.5	13	15⅓	10	36.30	28.70	28.80	22.00
	Nebraska Distance Tariff	24	13	13	11	14	14	14	36.00	32.80	32.00	19.80
	Interstate	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
125	Dickinson Bill	11	7	7	7	7	7	7	15.00	15.00	15.00	15.00
	Iowa Distance Tariff	10.75	8.8	8.8	7.35	6.85	6.35	6.35	27.50	23.50	17.70	17.50
	Illinois Distance Tariff	12.7	8.6	8.6	7.8	8.4	*24.6	7.8	21.09	19.19	17.37	16.30
	Kansas Distance Tariff	26	11.5	11.5	9.5	15	18⅔	12	43.45	34.85	34.40	24.75
	Nebraska Distance Tariff	26	15	15	13	15	16	17	39.50	35.88	35.20	22.00
	Interstate	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
150	Dickinson Bill	12	7.5	7.5	7.5	7.5	7.5	7.5	17.00	17.00	17.00	17.00
	Iowa Distance Tariff	12.5	9.5	9.5	7.9	7.4	6.85	6.85	30.00	25.50	19.20	19.00
	Illinois Distance Tariff	13.6	9.2	9.2	8.4	9	*26.2	8.4	22.42	20.52	18.48	17.10
	Kansas Distance Tariff	29	14	14	12	16	20⅔	13	45.10	38.95	38.40	27.50
	Nebraska Distance Tariff	29	16	16	14	16	17⅓	19	43.00	38.95	38.40	23.65
	Interstate—Carrollton to Pulaski, Ia.	21	.....	.....	.....	.....	.....	9.5	.....	.....	.....	.....
	Galesburg to Tyrone, Ia.	21	10.9	10.9	9.5	13	12	[10]†	51.00	34.85	27.20	20.90

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175	Dickinson Bill	13	8	8	8	8	8	8	19.00	19.00	19.00	19.00
	Iowa Distance Tariff	14.2	10.15	10.15	8 45	7.9	7.35	7.35	32.50	28.03	20.70	20.50
	Illinois Distance Tariff	14.5	9.8	9.8	8.9	9.5	*27.9	8.9	24.90	21.66	19.60	17.60
	Kansas Distance Tariff	31	15	15	13	18	22	15	48.40	42.03	40.80	30.25
	Nebraska Distance Tariff	31	17	17	15	18	19	21	45.50	43.05	42.40	25.85
	Interstate—Carrollton to Farmington, Ia.	22.5	.....	.....	.....	.....	.....	9.5	.....	.....	.....	.....
	Galesburg to Chariton, Ia.	21	10.9	10.9	9.5	13	12	[10]†	54.00	34.85	29.60	20.90
200	Dickinson Bill	14	8.5	8.5	8.5	8.5	8.5	8.5	21.00	21.00	21.00	21.00
	Iowa Distance Tariff	15.9	10.8	10.8	9	8.4	7.8	7.8	35.00	29.50	22.20	22.00
	Illinois Distance Tariff	15.2	10.4	10.4	9.5	10	*29	9.4	25.27	22.99	20.72	18.30
	Kansas Distance Tariff	34	15.25	15.25	13.25	19	23	16	51.70	44.07	44.00	33.00
	Nebraska Distance Tariff	34	18	18	16	19	20⅔	22	48.00	45.10	44.80	27.50
	Interstate—Carrollton to Leon, Ia.	18	.....	.....	.....	.....	.....	9.5	.....	.....	.....	.....
	Galesburg to Osceola, Ia.	22.5	11.75	11.75	10.4	13	12	[10]†	55.00	34.85	29.60	20.90
225	Dickinson Bill	15	9	9	9	9	9	9	23.00	23.00	23.00	23.00
	Iowa Distance Tariff	17.88	11.61	11.61	9.69	9.03	8.4	8.4	37.24	32.20	24.09	23.10
	Illinois Distance Tariff	15.7	10.9	10.9	9.9	10.4	*30.1	9.9	26.79	24.32	21.28	18.90
	Kansas Distance Tariff	37	15.75	15.75	13.75	20	24	17	53.35	46.13	45.60	33.55
	Nebraska Distance Tariff	37	18	18	16	20	22.75	24	51.00	48.18	48.00	29.70
	Interstate—Carrollton to Dudley, Ia.	18	.....	.....	.....	.....	.....	13	.....	.....	.....	.....
	Chicago to New London, Ia.	22	11.5	11.5	11	11	9	[11]†	50.00	34.85	28.80	24.20
250	Dickinson Bill	16	9.5	9.5	9.5	9.5	9.5	9.5	25.00	25.00	25.00	25.00
	Iowa Distance Tariff	19.2	12.15	12.15	10.15	9.49	8.8	8.8	38.74	34.00	25.35	23.90
	Illinois Distance Tariff	16.1	11.2	11.2	10.2	10.7	*30.8	10.3	27 93	25.46	21.70	19.20
	Kansas Distance Tariff	39	16	16	14	21	24.75	18	54.45	47.15	46.40	34.10
	Nebraska Distance Tariff	39	19	19	17	21	24	25	53.00	50.23	50.40	30.80
	Interstate—Carrollton to Corning, Ia.	22.5	.....	.....	.....	.....	.....	13	.....	.....	.....	.....
	Chicago to Beckwith	24	13	13	12	11	12	[11]†	59.00	43.05	33.60	25.30

Ex. 14, p. 1.

* Salt per barrel, 310 lbs. per bbl.
† Figures enclosed in brackets erased in copy.

Miles.		In dollars and cents per 100 pounds.							In dollars and cents per car of standard length.			
		Ag'l imp'ts.	Wheat.	Flour.	Other grain.	Lumber.	Salt.	Lime and cement	Horses and mules.	Cattle and calves.	Hogs.	Sheep
2327	Dickinson Bill	17	10	10	10	10	10	10	27.00	27.00	27.00	27.00
	Iowa Distance Tariff	21.18	12.96	12.96	10.81	10.08	9.37	99.37	41.00	36.70	27.24	25.10
	Illinois Distance Tariff	16.6	11.7	11.7	10.6	11.2	*31.7	10.7	29.64	26.79	22.26	19.70
275	Kansas Distance Tariff	42	16	16	14	21	25.73	20	55.55	48.18	48.00	34.65
	Nebraska Distance Tariff	42	19	19	17	21	26	26	56.00	54.32	53.60	33.00
	Interstate—Chicago to Agency City, Ia	24	13.9	13.9	12.5	12	12	13 [11]†	62.00	45.10	33.60	25.30
	Dickinson Bill	18	10.5	10.5	10.5	10.5	10.5	10.5	29.00	29.00	29.00	29.00
	Iowa Distance Tariff	22.5	15.53	13.53	11.25	10.5	9.75	9.75	42.50	38.50	28.50	25.90
	Illinois Distance Tariff	17	12.1	12.1	10.9	11.4	*32.4	11	30.59	27.93	22.68	20.00
300	Kansas Distance Tariff	44	16.5	16.5	14.5	22	27	21	56.65	49.20	48.80	35.20
	Nebraska Distance Tariff	44	20	20	18	22	27½	27	58.00	56.38	55.20	34.10
	Interstate—Chicago to Hunnewell, Ia	24	13.5	13.5	12	12	12	6 13 [11]†	52.00	34.85	32.00	20.90
	Dickinson Bill	19	11	11	11	11	1	11	31.00	31.00	31.00	31.00
	Iowa Distance Tariff	24	14.34	14.34	11.94	11.13	10.35	10.35	44.60	40.00	29.05	27.50
	Illinois Distance Tariff	17.9	12.5	12.5	11.4	11.7	*33.4	11.6	32.11	29.26	23.66	20 80
325	Kansas Distance Tariff	47	17.25	17.25	15.25	23	30	22	62.70	51.25	50.40	35.75
	Nebraska Distance Tariff	47	20	20	18	23	29½	29	61.00	58.43	57.60	35.75
	Interstate—St. Louis to Osceola, Ia	22.5	11.75	11.75	10.4	12	12	9.5 [10]†	55.00	34.85	29.60	20.90

PAGE BOUND

350	Dickinson Bill	20	11.5	11.5	11.5	11.5	11.5	11.5	33.00	33.00	33.00	33.00
	Iowa Distance Tariff	25	14.88	14.88	12.4	11.55	10.75	10.75	46.00	41.00	29.43	28.30
	Illinois Distance Tariff	18.3	12.7	12.7	11.6	11.8	*33.8	11.9	32.87	29.83	24.22	21.20
	Kansas Distance Tariff	49	17.75	17.75	15.75	23	32	23	66.55	52 28	52.00	37.40
	Nebraska Distance Tariff	49	21	21	19	23	30¾	30	63.00	61.15	60.80	37.40
	Interstate—St. Louis to Creston, Ia.	22.5	11.75	11.75	10.75	12	12	11 [10]†	55.00	48.18	37.60	27.50
375	Dickinson Bill	21	12	12	12	12	12	12	35.00	35.00	35.00	35.00
	Iowa Distance Tariff	26.5	15.68	15.68	13.06	12.18	11.32	11.32	48.10	42.50	30.00	29.50
	Illinois Distance Tariff	18.8	13	13	11.8	12	*34.3	12.2	33.63	30.59	24.64	21.60
	Kansas Distance Tariff	57	18.5	18.5	16.75	26	35	28	70.40	54.33	53.60	39.60
	Nebraska Distance Tariff	58	22	22	20	26	33	36	67.00	64.58	64.00	39.60
	Interstate—Chicago to Laclede, Mo.	30	13.5	13.5	12	16	12	16 [12.5]†	63.00	43.05	34.20	25.30
400	Dickinson Bill	22	12.5	12.5	12.5	12.5	12.5	12.5	37.00	37.00	37.00	37.00
	Iowa Distance Tariff	27.5	16.2	16.2	13.5	12.6	11.7	11.7	49.50	43.49	31.50	30.30
	Illinois Distance Tariff	19.1	12.2	13.2	12	12.1	*35	12.5	34.39	31.35	25.20	22.00
	Kansas Distance Tariff	59	19	19	17	30	37	31	72.60	55.35	54.40	40.70
	Nebraska Distance Tariff	64	22	22	20	30	35	40	69.00	66.63	66.40	40.70
	Interstate—Chicago to Utica, Mo.	30	14	14	13	16	12	16 [12.5]†	66.00	47.15	37.60	27.50

Minimum Weights—Dickinson Bill	20,000	40,000	24,000	40,000	30,000	30,000	30,000	30 ft. 6 inches.
" " Iowa Distance Tariff	20,000	24,000	24,000	24,000	20,000	24,000	24,000	31 ft.
" " Illinois Distance Tariff	20,000	24,000	24,000	24,000	24,000	24,000	30,000	31 ft.
" " Kansas Distance Tariff	20,000	Actual weight 30 ft. cars & capacity in cars over 30 ft.—various.			30,000	30,000	24,000	33 ft. 9 inches.
" " Nebraska Distance Tariff	20,000				30,000	30,000	24,000	31 ft.
							24,000	
							30,000	

Ex. 14, p. 2.

* Salt per barrel, 310 lbs. per bbl.
† Figures enclosed in brackets erased in copy.

ERTICAL IN BOOK

2328 **Ex. 15.**

Statement Showing Revenue as Received on Lines of the C., B. & Q. Road at Stations Named Below in Missouri on Live Stock Handled from and to those Stations and Points in Missouri and the Revenue that Would be Received under House Bill 208 as Amended, and as Passed the House and Senate.

Stations.	Total cars.	Bet. Mo. points.	Rev., 1904.	Rev., propo. basis.	Revenue reduction.		Iowa basis.
					Dollars.	Per-centage.	
Parkville	143	127	1261	769	512	40%	1396
Waldron	80	77	781	479	302	39%	937
F. Leavenworth	17	14	150	92	58	39%	178
Beverly	6	6	65	60	5	8%	89
Weston	114	94	1090	891	199	18%	1352
Iatan	73	69	813	581	232	29%	1009
Rushville	14	11	125	83	42	34%	162
Amazonia	15	15	158	99	59	42%	160
Nodaway	56	56	813	383	230	37%	671
Fordes	139	134	1377	857	520	38%	1606
Forest City	337	237	3539	2444	1095	30%	3231
Napier	53	38	540	345	195	36%	564
Bigelow	130	113	1988	1171	817	42%	1969
Craig	368	334	6028	3323	2705	45%	6064
Nishnabotna	72	66	1331	644	687	52%	1219
Langdon	63	50	1033	475	558	54%	911
Phelps	63	63	1358	762	596	44%	1154
Watson	131	84	1750	967	783	45%	1601
Cosby	98	88	562	328	234	42%	693
Helena	102	102	1182	664	518	44%	1358
Union Star	442	402	5197	2631	2566	49%	5565
King City	767	493	7417	4895	2522	34%	7714
Ford City	223	163	2386	1554	932	35%	2482
Darlington	24	20	400	228	172	43%	360
New Hampton	413	249	4124	2472	1652	40%	4371
Ridgeway	342	188	4263	2710	1553	37%	3996
Albany	214	137	2295	1409	886	40%	2391
Grant City	422	255	5293	3125	2108	40%	4806
Bethany	365	222	4698	2598	2100	45%	4058
Blythedale	238	102	2377	1260	1117	47%	2132
Savannah	230	208	2303	1403	900	39%	2452
Rosendale	389	360	4193	2435	1758	42%	4645
Bolckow	272	207	2751	2035	716	29%	3114
Barnard	268	241	3239	2360	879	29%	3634
Arkoe	276	240	3995	2348	1647	41%	4069
Maryville	423	324	5772	3222	2550	44%	5503
Pickering	171	150	3084	1530	1554	50%	2610
Hopkins	372	316	6513	3213	3300	51%	5768
Mound City	666	601	11181	6285	4896	44%	10740

Statement Showing Revenue, etc.—Continued.

Stations.	Total cars.	Bet. Mo. points.	Rev., 1904.	Rev., propo. basis.	Revenue reduction.		Iowa basis.
					Dollars.	Per-centage.	
Maitland	1058	685	12304	7701	4603	37%	11906
Skidmore	747	578	11167	5990	5177	46%	10887
Quitman	621	349	7137	4293	2844	39%	6991
Burlington Jct.	458	232	4859	2785	2074	43%	4428
Clearmont	185	116	2504	1395	1109	44%	2251
Corning	85	76	1401	752	649	46%	1307
Tarkio	1492	972	22340	12843	9497	43%	19263
Fairfax	638	568	10693	5495	5198	48%	10232
Westboro	388	268	5768	3117	2651	46%	5202
Saxton	22	11	121	67	54	45%	115
Easton	36	30	323	197	126	39%	337
Hemple	126	114	1177	722	455	39%	1406
Stewartsville	260	217	2394	1437	957	40%	3013
Osborn	240	192	2916	1807	1109	37%	3016
Cameron	210	132	1946	1179	767	39%	2513
Kidder	143	113	1533	985	548	35%	1573
Hamilton	480	337	8314	5067	3247	38%	7519
Nettleton	145	91	1898	1047	851	44%	1792
Breckenridge	269	171	3303	1854	1449	43%	3102
Mooresville	89	48	840	543	297	35%	920
Utica	77	56	1061	799	262	24%	1125
Chillicothe	192	56	1187	800	387	32%	1216
Wheeling	77	54	1178	749	429	35%	933
Meadville	221	77	1631	1004	627	38%	1521
La Clede	16830						
2329							
For'd	16830						
La Clede	8	29	634	478	156	24%	971
Brookfield	222	112	2642	1800	842	32%	2786
St. Catherine	46	6	157	152	5	32%	159
Bucklin	73	42	1103	917	186	17%	1139
New Cambria	143	96	2689	2196	493	18%	2612
Callao	164	93	2592	2107	485	19%	2634
Macon	74	44	1399	878	521	37%	1461
Annabel	31	16	443	334	109	25%	445
Clarance	595	234	6629	4724	1905	29%	6660
Lentner	71	17	456	356	100	22%	441
Shelbina	682	210	5502	3964	1538	28%	5750
Lakeman	50	16	418	219	199	33%	214
Hunnewell	202	37	1741	1292	499	26%	1554
Monroe	309	176	4517	3355	1162	26%	5026
Ely	44	11	268	191	77	29%	188
Woodland	19	5	109	83	26	24%	108
Palmyra	243	106	2543	1729	814	32%	2717

Statement Showing Revenue, etc.—Continued.

Stations.	Total cars.	Bet. Mo. points.	Rev., 1904.	Rev., propo. basis.	Revenue reduction.		Iowa basis.
					Dollars.	Per-centage.	
Randolph	25	25	258	157	101	39%	281
Liberty	425	373	3949	2282	1667	42%	4873
Robertson	187	98	1026	595	431	42%	1245
Kearney	574	523	5863	3365	2498	43%	4675
Holt	134	119	1627	731	898	55%	1732
Lathrop	532	473	1365	5055	4310	46%	9427
Turney	194	153	2295	1381	914	40%	2343
Carrollton	110	69	1771	1371	400	23%	1939
Bogard	224	165	4594	3711	883	19%	5012
Tina	233	165	4134	3250	884	21%	3500
Hale	299	244	6111	3935	2176	36%	5776
Sumner	86	19	476	364	112	23%	416
Forker	112	69	1651	1163	488	30%	1658
Linneus	179	48	1004	713	291	30%	963
Purdin	206	52	1144	743	401	35%	1034
Browning	344	156	4247	2832	1415	33%	4387
Milan	183	78	2057	1450	307	30%	2087
Pollock	85	17	481	318	163	34%	472
Lemons	39	9	290	162	122	42%	312
Unionville	85	24	841	506	335	40%	791
Canton	335	172	3927	3184	743	18%	4367
La Grange	47	42	624	589	35	56%	936
Saverton	15	10	187	143	44	24%	199
Ashburne	17	17	318	243	75	24%	331
Clarksville	67	48	897	581	316	35%	1055
Kissinger	26	22	411	267	144	35%	422
Annada	51	12	224	145	79	35%	270
Dameron	32	32	575	342	233	41%	669
Foley	26	26	486	257	229	47%	445
Winfield	11	11	172	96	76	44%	265
Old Monroe	30	22	308	218	90	29%	380
Wayland	156	59	1802	1191	611	33%	1588
Kahoka	153	37	966	773	193	20%	914
Luray	110	27	767	624	143	19%	750
Arbela	59	21	583	486	97	17%	522
Memphis	306	77	2200	1779	421	19%	770
Crawford	54	10	261	231	30	11%	272
Downing	170	38	992	878	114	11%	1034
Lancaster	474	128	5167	3238	1929	37%	5034
Cainsville	264	30	782	497	285	36%	703
	26485	17170	323915	200445	123470		318086
		65% total ship'ts.		62%	38% of total		
Average per car.....		18.87		11.67	7.20		18.53

Ex. 16.

State of Missouri—Maximum Freight Rate Matter.

Statement of Missouri's Proportion of the Earnings on Freight Received at Stations on the Missouri Pacific Railway; Also Tons One Mile, Rate Per Ton, etc., During the Month of October, 1905, as Follows: St. Louis, Mo., Kansas City, Mo., Kansas City, Grand Avenue, Mo., Leavenworth, Kas., Atchison, Kas., St. Joseph, Mo., All Points on Main Line Between St. Louis, Mo., and Kansas City, Mo. (283 Miles), All Points Between Kansas City, Mo., and Atchison, Kas. (47 Miles, All in Kansas), and Omaha and South Omaha, Nebraska, Representing Roughly About 90% of All the Missouri State Business and About 50% of All the Missouri Interstate Business.

Character of freight.	Number of tons.	Percentage of total tons.	Revenue (gross).	Percentage of total revenue.	Average amount received per ton.	Number of tons one mile.	Percentage of total ton miles.	Average revenue per ton per mile (cents).	Average length of haul (miles).
Interstate:									
Carload	269,743.657	69.54	$170,862.73	60.22	$.63342	29,291,530.305	81.08	.58331	109
Less-than-Carload	4,224.620	1.08	20,381.37	7.18	4.82504	846,350.638	2.34	2.40814	200
Total Interstate	273,968.277	70.62	$191,244.10 89.34* 10.66*	67.40 74.51* 25.49*	$.69805	30,137,881.143	83.42	.63456	110
State:									
Carload	109,106.160	28.13	$68,900.67	24.29	$.63150	5,466,865.817	15.13	1.26033	50
Less-than-carload	4,836.138	1.25	23,572.97	8.31	4.87447	521,385.597	1.45	4.52122	108
Total State	113,942.298	29.38	$92,473.64	32.60	$.81158	5,988,251.414	16.58	1.54425	53
Totals	387,910.575	100.	$283,717.74	100.	$.73140	36,126,132.557	100.	.785	93
Total Carload	378,849.817	97.67	$239,763.40	84.51	$.63287	34,758,396.322	96.21	.689	92
Total Less-than-Carload	9,060.758	2.33	$43,954.34	15.49	$4.85147	1,367,736.235	3.79	3.2137	151

[* In pencil in copy.]

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Ratio of Revenue per ton per mile on less-than-carload Interstate freight to less-than-carload State freight	53.26%
Ratio of Revenue per ton per mile on carload Interstate freight to carload State freight	46.28%
Ratio of Revenue per ton per mile on carload Interstate freight to less-than-carload Interstate freight	24.22%
Ratio of revenue per ton per mile on carload State freight to less-than-carload State Freight	27.87%
Ratio of Revenue per ton per mile of Carload Interstate Freight to less-than-carload State freight	12.92%
Ratio of Revenue per ton per mile on all Interstate freight to State freight	41.09%
Ratio of Revenue per ton per mile on all carload freight to less-than-carload freight	21.44%

NOTE.—The average revenue per ton on Interstate carload freight was 63.342 cents, and the average revenue per ton on State carload freight was 63.150 cents, or practically the same for both classes, although the State carload freight was hauled an average of only fifty (50) miles, while the Interstate carload freight was hauled an average of one hundred and nine (109) miles, or more than twice as far on the average as the State business.

The average revenue per ton on Interstate less-than-carload freight was $4.82504, and the average revenue per ton on State less-than-carload freight was $4.87447. The average haul of Interstate less-than-carload freight was two hundred (200) miles, as compared with an average haul of State less-than-carload freight of one hundred and eight (108) miles. Although the average haul of Interstate less-than-carload freight was nearly twice as great as the average haul of state less-than-carload freight the amount received for each ton was less.

While the average haul of State carload business is only fufty (50) miles, and the average haul of Interstate carload business one hundred and nine (109) miles, it does not follow that the Interstate business was handled more cheaply *per ton per mile* than the State business, because every station on the line receives and forwards Interstate freight which must be handled to and from divisional points on local trains, and local trains handle more Interstate freight than State freight.

The average earnings *per ton per mile* on *all* State freight were 1.54425 cents, and on *all* Interstate freight .63456 cents. If this ratio holds good on the Burlington then its ton-miles of State freight were only 9.2% of its ton-miles of all freight handled in Missouri.

The ton-miles of State less-than-carload freight were 8.7% of the ton-miles of all State freight. If this ratio holds good on the Burlington then its ton-miles of State less-than-carload freight in 1905 would be only eight-tenths of one per cent of its total ton-miles of Missouri freight. That is, although 19.67% of the total freight earnings of the Burlington Railway in Missouri, during the calendar year 1905, resulted from its State freight business, only eight-tenths of one per cent of its total ton-miles in Missouri consisted of State less-than-carload business.

Ex. 16.

2331 EXHIBIT 16*a*.

(*a*) Exhibit 16 purports to give some figures prepared of shipments in October, 1905 to and from certain points upon the Missouri Pacific Railroad. It is worthless, for it purports only to be a partial statement and is upon a different road. As a matter of fact, it in no wise represents any possible condition which does or could exist upon the Burlington. None of the figures in Exhibit 16 were used in the Missouri Pacific case and hence it must be assumed to have been abandoned therein because of no value there, which if true, shows it to be valueless here.

(*b*) The percentage of tons, revenue, ton miles and average length of haul upon the Burlington lines for September, 1906 is attempted to be tabulated by the state in Exhibit 36. Comparing Exhibit 16 with Exhibit 36, there is (revenue per ton being expressed in cents) this result:

	Per c., tons,		Per c., revenue,		Per c., ton miles,	
	Inters.	State.	Inters.	State.	Inters.	State.
Exhibit 16	70.62	29.38	67.40	32.60	83.42	16.58
Exhibit 36	86.29	13.71	83.64	16.36	91.33	8.67
Difference..		15.67	.....	16.24	.....	7.91

Aver. rev. per ton.		Aver. rev. per ton mile.		Aver. No. miles.	
Inters.	State.	Inters.	State.	Inters.	State.
.69805	.81158	.63456	1.54425	110	53
1.1177	1.3756	.8265	1.7032	135	81
.41965	.56412	.19194	.15895	25	28

If the difference in these percentages were to be applied to the Burlington figures in Exhibit 1, the result would be that the state freight earnings should be increased upon the ton mile basis 15.67 per cent; upon revenue ton basis, 16.24% and upon ton mile basis 7.91% of all freight earnings. So a comparison of these exhibits shows that the income of the Burlington Company per ton is higher than the Missouri Pacific per ton, the interstate being .41965 and the state .56402, and per ton mile interstate .19194, state .1592. The average number of miles is greater on the Burlington in interstate traffic by 25 and upon state traffic by 28 miles. A comparison of Exhibit 16 showing some stations upon the Missouri Pacific for the month of October, 1905 with Exhibit 27 showing all stations
2332 for the same period shows this result:

	Per c., tons,		Per c., revenue,		Per c., ton miles,	
	Inters.	State.	Inters.	State.	Inters.	State.
Exhibit 16	70.62	29.38	67.40	32.60	83.42	16.58
Exhibit 27	75.26	24.74	74.27	25.73	86.02	13.98
Difference..		4.64	.....	6.87	.....	2.60

Aver. rev. per ton.		Aver. rev. per ton mile.		Aver. No. miles.	
Inters.	State.	Inters.	State.	Inters.	State.
.69805	.81158	.63456	1.54425	110	53
.8220	.8663	.7796	1.6619	105	52
.12395	.05472	.14504	.11765	5	1

The differences show the unreliability of and the danger in generalizing with theories and inapplicable unwarranted assumptions. Another comparison between these three exhibits for one month is this:

Exhibits.	Revenue.	Tons.	Ton miles.
16	$92,473.64	113942	5,988,251
27	130,837.56	151033	7,872,906
36	118,927.35	86458	6,982,761
Diff. bet. Ex. 16 & 27.			
1 month	$38,363.92	37091	1,884,655
12 mos.	460,367.04	445092	22,615,860
Diff. bet. Ex. 16 & 36.			
1 month, favor Burl. in rev. & ton miles and Mo. P. in tons	$26,453.71	27484	994,510
12 mos.	517,444.52	329808	11,934,120

2333 Ex. 17.

State of Missouri—Maximum Freight Rate Matter.

Statement of Profit on Interstate Carload and Less-than-Carload Freight Business and State Carload and Less-than-Carload Freight Business, Using as the Unit of Cost a Ratio of Fifty Per Cent (50%) of the Revenue of 5.84 Mills Per Ton Per Mile Derived from Interstate Carload Business (See Note).

Interstate carload:

Earnings per ton per mile (Mo. Pac. Ry. Showing)	5.84 mills
Cost per ton per mile on the basis of 50% of the earnings	2.92 "
Profit per ton per mile	2.92 "

Ratio of cost to Earnings—50%.

State carload:

Earnings per ton per mile (Mo. Pac. Ry. Showing)	12.60 Mills
Cost per ton per mile on basis of the State carload business even costing twice as much per ton per mile as the Interstate carload business costs:	
Two times 2.92 mills	5.84 "
Profit per ton per mile	6.76 "

Ratio of Cost to Earnings—46.35%.

Interstate less-than-carload:

	Earnings per ton per mile (Mo. Pac. Ry. Showing)	24.08 mills
(*a*)	Cost per ton per mile on basis of Interstate less-than-carload business costing *three* times as much per ton per mile as the Interstate carload business costs:	
	Three times 2.92 mills	8.76 "
	Profit per ton per mile	15.32 "

Ratio of Cost to Earnings—36.38%.

	Earnings per ton per mile (Mo. Pac. Ry. showing)	24.08 mills
(*b*)	Cost per ton per mile on basis of Interstate less-than-carload business costing *five* times as much per ton per mile as the Interstate carload business costs:	
	Five times 2.92 mills	14.60 "
	Profit per ton per mile	9.48

Ratio of Cost to Earnings—60.63%.

	Earnings per ton per mile (Mo. Pac. Ry. Showing)	24.08 mills
(*c*)	Cost per ton per mile on basis of Interstate less-than-carload business costing *seven* times as much per ton per mile as the Interstate carload business costs:	
	Seven times 2.92 mills	20.44 "
	Profit per ton per mile	3.64 "

Ratio of Cost to Earnings—84.88%.

State less-than-carload:

	Earnings per ton per mile (Mo. Pac. Ry. showing)	45.21 mills
(1)	Cost per ton per mile on basis of State less-than-carload business costing *three* times as much per ton per mile as the Interstate carload business costs:	
	Three times 2.92 mills	8.76 "
	Profit per ton per mile	36.45

Ratio of Cost to Earnings—19.38%.

Earnings per ton per mile (Mo. Pac. Ry. showing).	45.21 mills
(2) Cost per ton per mile on basis of State less-than-carload business costing five times as much per ton per mile as the Interstate carload business costs:	
Five times 2.92 mills	14.60 mills
Profit per ton per mile	30.61 "

Ratio of Cost to Earnings—32.29%.

Earnings per ton per mile (Mo. Pac. Ry Showing).	45.21 mills
(3) Cost per ton per mile on basis of State less-than-carload business costing *seven* times as much per ton per mile as the Interstate carload business costs:	
Seven times 2.92 mills	20.44 "
Profit per ton per mile	24.77 "

Ratio of Cost to Earnings—45.21%.

The above calculations are based on the Missouri Pacific Railway showing of 5.84 mills per ton per mile realized on all Interstate carload business. The revenue per ton per mile on "Through" Interstate carload business would be considerably less, probably not in excess of five mills per ton per mile (possibly only 4½ mills), and the cost per ton per mile, based on a percentage of the earnings on "Through" Interstate carload business, would therefore be considerably less than the figures used in the above statement, and the profit shown on both carload and less-than-carload State business correspondingly increased.

2334 **EXHIBIT 17*a*.**

(*a*) Exhibits 17 and 18 are prepared and based upon Exhibit 16, which relates to a part of the Missouri Pacific traffic, and these exhibits are afterwards used in Exhibit 28 For the reasons given in Exhibit 16*a*. Exhibit 16 is of no value in this case, hence, anything based thereon is valueless.

(*b*) Neither exhibit- 17 nor 18, nor anything prepared upon the same basis was used in the Missouri Pacific case, and it is fair to assume that such exhibits were there abandoned, hence, it is useless to follow them here. They, in fact, have no application to any situation upon the Burlington road, and represent nothing as to that road.

(*c*) On the face of the statements, they are absurd.

(*d*) To test the value of Exhibits 17 and 18, one can put the converse, i. e., instead of putting the figures first upon the ton mile earnings of interstate freight and multiplying by two, three, five and seven respectively, the assumption can be made upon the ton mile earnings of state freight. Say it cost 60% of the earnings per ton per mile to do the state freight business—and this is not unfair to the state which has as shown in Exhibit 37*b* prepared its final Ex-

hibits 37, 38, 39 and 40 upon the basis of state freight costing from 43% to 48% only. The first assumption then is that it costs 60% of the earnings to do state freight business. The next assumption is that the car load state freight costs twice as much as interstate and less than car load state costs three, five, or seven times as much as interstate. To put the proposition conversely then the result is ascertained by using the multiple as a divisor because if state freight costs a certain number of times more than interstate, given the cost of state freight and applying the principle applied in Exhibits 17 and 18, the interstate cost would be ascertained by dividing instead of multiplying. The result is this:

2335 (1st) Carload Business.

State.		Interstate.	
Revenue	12.60	Revenue	5.84
Cost per ton at 60%	7.56	Cost at twice	3.78
Profit	$5.04	Profit	2.06

(2nd) Less-than-Carload Business.

State.		Interstate.	
Revenue	45.21	Revenue	24.08
Cost at 60%	27.12	Cost at three times	9.04
Profit	18.09	Profit	15.04
		Cost five times	5.42
		Profit	18.66
		Cost seven times	3.73
		Profit	20.25

(*e*) If any other percentage be assumed different results will be obtained which will more clearly demonstrate that the basis attempted to be used in Exhibits 17 and 18 and herein is absolutely useless.

2336 **Ex. 18.**

State of Missouri—Maximum Freight Rate Matter.

Statement of Profit on Interstate Carload and Less-than-Carload Freight Business and State Carload and Less-than-Carload Freight Business, Using as the Unit of Cost a Ratio of Sixty Per Cent (60%) of the Revenue of 5.84 Mills Per Ton Per Mile Derived from Interstate Carload Business (See Note).

Interstate carload:

Earnings per ton per mile (Mo. Pac. Ry. showing)....	5.84 mills
Cost per ton per mile on the basis of 60% of the earnings	3.50 "
Profit per ton per mile.....	2.34 "

Ratio of Cost to Earnings—60%.

State carload:

Earnings per ton per mile (Mo. Pac. Ry. showing)....	12.60 mills
Cost per ton per mile on basis of the State carload business even costing twice as much per ton per mile as the Interstate carload business costs:	
Two times 3.50 mills.....	7.00 "
Profit per ton per mile.....	5.60 "

Ratio of Cost to Earnings—55.55%.

Interstate less-than-carload:

Earnings per ton per mile (Mo. Pac. Ry. showing)	24.08 Mills
(*a*) Cost per ton per mile on basis of Interstate less-than-carload business costing *three* times as much per ton per mile as the Interstate carload business costs:	
Three times 3.50 mills	10.50 "
Profit per ton per mile.....	13.58 "

Ratio of Cost to Earnings—43.60%.

Earnings per ton per mile (Mo. Pac. Ry. showing)	24.08 mills
(*b*) Cost per ton per mile on basis of Interstate less-than-carload business costing *five* times as much per ton per mile as the Interstate carload business costs:	
Five times 3.50 mills	17.50 "
Profit per ton per mile	6.58 "

Ratio of Cost to Earnings—72.67%.

Earnings per ton per mile (Mo. Pac. Ry. showing) 24.08 mills
(*c*) Cost per ton per mile on basis of Interstate less-than-carload business costing *seven* times as much per ton per mile as the Interstate carload business costs:
Seven times 3.50 mills ..... 24.50 "
Loss per ton per mile ..... .42 "

Ratio of cost to earnings—101.74%.

State less-than-carload:

Earnings per ton per mile (Mo. Pac. Ry. showing) 45.21 mills
(1) Cost per ton per mile on basis of State less-than-carload business costing *three* times as much per ton per mile as the interstate carload business costs:
Three times 3.50 mills ..... 10.50 "
Profit per ton per mile ..... 34.71 "

Ratio of cost to earnings—23.22%.

Earnings per ton per mile (Mo. Pac. Ry. showing) 45.21 mills
(2) Cost per ton per mile on basis of State less-than-carload business costing *five* times as much per ton per mile as the Interstate carload business costs:
Five times 3.50 mills ..... 17.50 "
Profit per ton per mile ..... 27.71 "

Ratio of Cost to Earnings—38.71%.

Earnings per ton per mile (Mo. Pac. Ry. showing) 45.21 mills
(3) Cost per ton per mile on basis of State less-than-carload business costing *seven* times as much per ton per mile as the Interstate carload business costs:
Seven times 3.50 mills ..... 24.50 "
Profit per ton per mile ..... 20.71 "

Ratio of Cost to Earnings—54.19%.

The above calculations are based on the Missouri Pacific Railway showing of 5.84 mills per ton per mile realized on all Interstate carload business. The revenue per ton per mile on "Through" Interstate carload business would be considerably less, probably not in excess of five mills per ton per mile (possibly only 4½ mills), and the cost per ton per mile, based on a percentage of the earnings on

"Through" Interstate carload business, would therefore be considerably less than the figures used in the above statement, and the profit shown on both carload and less-than-carload State business correspondingly increased.

2337 Ex. 19.

State of Missouri—Maximum Freight Rate Matter.

Statement Showing Relative Cost of Doing Freight and Passenger Business in the State of Missouri on the Chicago, Burlington & Quincy Railway, During the Year 1905.

	Freight.	Passenger.
The Chicago, Burlington & Quincy Railway Company's earnings in Missouri, for the calendar year 1905, as shown by Complainant's Exhibit No. 1, page 1, were.....	$8,385,120.44	$3,030,322.19
Apportioning the Miscellaneous Earnings of $1,169,165.01 on the following basis:		
Mail Earnings	.....	285,063.32
Express Earnings	.....	242,586.77
Telegraph Earnings (½ and ½)..	9,424.70	9,424.71
Switching Earnings	126,705.78	.....
Rental Earnings (½ and ½).....	146,466.90	146,466.90
Express, Baggage and Storage Earnings	.....	50,361.28
Milk Earnings	.....	37,410.48
Car Service	21,059.21	.....
Sundry Earnings (½ and ½)..... (Kansas City and Quincy Bridge Tolls and Rents, Storage of Freight, Profit on labor and Material furnished outside parties).	47,097.48	47,097.48
The total Freight and Passenger Earnings would be ($12,584,607.64).	$8,735,874.51	$3,848,733.13
The expenses, according to Exhibit No. 8, which do not include the $917,418.75 replacement fund charged during the year 1905, were	$4,678,346.90	$2,483,041.90
Making the per cent of Expenses to Earnings	53.55	64.52

2338 EXHIBIT 19*a*.

(*a*) Exhibit 19 was prepared so as to arbitrarily distribute miscellaneous earnings into freight and passenger respectively. The division is not right, has never been in practice adopted by any road, does not represent any condition upon the Burlington road, and only tends to confuse, especially so long as there was no division made between state and interstate freight, as there wasn't.

(*b*) There has been division made of miscellaneous earnings between State and Interstate as shown by Exhibit 1. It would be utterly impossible to apportion miscellaneous earnings or expenses upon a ton mile basis as they cannot be reduced to that basis which is another reason for not applying the ton mile basis of apportionment in dividing the expense.

In complainant's figures which have been prepared on the revenue basis freight has been treated independently of passenger and miscellaneous earnings and only the freight portion of expenses have been used. In none of the subsequent exhibits offered by the State have the miscellaneous earnings been included; nor has any attempt been made to apportion passenger earnings between State and Interstate business except on revenue basis. It is fair to assume then that exhibit 19 is abandoned. No evidence has been offered to show that on State business the expenses are 53.55% of freight earnings and 64.52% of passenger earnings or any other per cent. So far as proof goes it may or may not be that on state business freight expenses are a larger per cent of freight earnings than passenger expenses are of passenger earnings.

(*c*) According to Exhibit 19, miscellaneous earnings $1,169,165.01 are attempted to be partially thrown in to freight by assigning $350,753.87 thereof to freight earnings. As a matter of fact $533,582.75 of miscellaneous or 45.5% were as shown by Exhibit 1 state as distinguished from inter-state earnings regardless of any attempt to assign same to passenger or freight business. An
2339 assignment of it in lump without division as between state and inter-state would leave it to be divided and assigned on a revenue freight basis ascertained before it becomes part thereof—which is an absurdity because after it became a part of freight revenue the percentages would again be changed. In that way only 19.70%—the proportion of state to interstate freight would be assigned to state freight. As a matter of fact the change ought not to be made and in no other exhibit was any attempt made by the state to avail itself of this change.

(*d*) The expenses of freight shown by this Exhibit are $4,678,346.90 but exclude $917,418.75 replacement fund of which only $550,000 in part is challenged. This is shown in Exhibit 42 paragraph 9. This change of figures becomes significant in the state's final statements because they take in Exhibits 37, 38, 39 and 40, $4,678,346.90 as the total operating expenses (exclusive of taxes and rentals) entirely omitting $917,418.75 expense upon account of replacement fund.

(*e*) The operating expenses have never been divided as between state and passenger business, hence the only method of dividing the same is upon a revenue basis so that when in Exhibit 19, these expenses are based upon Exhibit 6 it is upon an arbitrary division having no warrant. In other words Exhibit 6 is an office memoranda for measuring the efficiency of operating office-s and only valuable for that by using the same basis for successive months in successive years, for the purpose of comparing an operating office-'s record with his previous record. The method of division has never been used as a basis of rates upon any railroad or by rate making power or as a method of dividing expenses and the apportionment is wrong for the purposes for which it is sought to be used in this case. In 1893 the Interstate Commerce Commission dropped the method of apportionment adopted in Exhibit 6.

2340–2440 (*f*) The $4,678,346.90 so used as expenses in Exhibit 19 fails to include the replacement expense of $917,418.75 of which the freight proportion would be 66.63% or $611,276.11 which if added would make the state's claim of expenses on the basis adopted in Exhibit 19 $5,289,623.01. The total operating expense is however 66.63% of all operating expenses $8,078,807.55 or $5,382,909.47 or $704,562.57 more than as stated in Exhibit 19—and this is exclusive of taxes and rentals.

2441 **Ex. 20.**

State of Missouri—Maximum Freight Rate Matter.

Statement of Gross Earnings, Maintenance of Way and Structures and Maintenance of Equipment Expenditures Per Mile of Line Operated of All Railroads in the United States, for the Eleven Years Ended June 30, 1904, Showing Increase in Each of the Different Items, During the Ten Years Ended that Date.

	Per mile of line operated.		
	Gross earnings.	Maintenance of way and structures.	Maintenance of equipment.
1894	$6,109.00	$817.61	$642.35
1895	6,050.00	809.41	643.52
1896	6,320.00	876.43	738.77
1897	6,122.00	861.11	671.41
1898	6,755.00	931.54	769.00
1899	7,005.00	952.98	804.09
1900	7,722.00	1,088.32	945.12
1901	8,123.00	1,173.51	981.56
1902	8,625.00	1,241.16	1,066.71
1903	9,258.00	1,297.58	1,171.90
1904	9,306.00	1,231.26	1,259.52
Increase in Ten Years	$3,197.00	$413.65	$617.17
Percentage of Increase	52.33	50.59	96.08

2442 **Ex. 21.**

State of Missouri—Maximum Freight Rate Matter.

Revenue per Ton per Mile (in Cents) under the Rates Fixed by the Act of 1905.

Distance (miles).	Horses and mules.	Cattle and calves.	Hogs, single deck.	Hogs, double deck.	Sheep, single deck.	Sheep, double deck.	Agricultural implements, furniture, and wagons.	Grain, flour, lime, salt, cement, water lime, stucco, lumber, lath, and shingles.
25	2.27	2.40	2.62	1.31	4.52	2.40	5.60	4.00
50	1.70	1.80	2.27	1.14	3.40	1.80	3.20	2.20
75	1.39	1.40	1.84	.92	2.90	1.46	2.40	1.60
100	1.28	1.30	1.64	.82	2.46	1.30	2.00	1.30
125	1.13	1.20	1.51	.76	2.27	1.20	1.76	1.12
150	1.07	1.13	1.43	.72	2.14	1.13	1.60	1.00
175	1.02	1.08	1.37	.69	2.05	1.08	1.48	.91
200	.99	1.05	1.32	.66	1.99	1.05	1.40	.85
225	.96	1.02	1.29	.65	1.93	1.02	1.33	.80
250	.94	1.00	1.26	.63	1.89	1.00	1.28	.76
275	.93	.98	1.24	.62	1.86	.98	1.23	.72
300	.91	.96	1.22	.61	1.83	.96	1.20	.70
325	.90	.95	1.20	.60	1.80	.95	1.16	.67
350	.89	.94	1.19	.59	1.78	.94	1.14	.65

NOTE.—In the case of live stock the figures shown above are based on the minimum weights prescribed by the Board of Railroad and Warehouse Commissioners for 36-foot cars. Figures based on minimum weights for 34-foot cars would be higher than those shown above by about six per cent.

The figures on agricultural implements, also on grain, etc., are based on the carload minima fixed by the Act of 1905.

NOTE.—The average earnings per ton per mile in Missouri on Interstate carload freight, as shown by the statement prepared from Missouri Pacific Railway records, amounted to .584 cents, or less than the lowest rate shown above. (The average earnings per ton per mile on "Through" Interstate business would be considerably less.) If the cost of the Interstate carload business was fifty per cent of the revenue derived therefrom, then the cost per ton per mile of that business was .292 cents. And even if the cost per ton per mile on State carload business is twice as much as on Interstate carload business, then the cost per ton per mile would be .584 cents, or less than the lowest rate shown above.

2443 **Ex. 22.**

State of Missouri—Maximum Freight Rate Matter.

Ratio of Missouri's Proportion of Interstate Rates, Divided on a Mileage Basis, to Missouri's "Local" Rates—Chicago, Burlington & Quincy Railway Company.

	From				
	Chicago.	Peoria.	Des Moines.	Burlington.	Omaha.
To Missouri points:					
Monroe	19.1%	25.3%	17.3%	56.6%	109.3%
Macon	34.1%	43.3%	28.8%	61.9%	102.3%
Brookfield	37.9%	51.6%	49.2%	69.6%	95.8%
Laclede	46.0%	54.6%	48.1%	65.7%	97.5%
Milan	23.6%	23.4%	38.2%	36.5%	96.4%
Unionville	11.3%	11.5%	19.5%	18.5%	15.6%
Cainsville	7.6%	7.6%	18.2%	9.1%	14.6%
Carrollton	48.3%	55.3%	55.6%	61.6%	101.9%
Cameron	49.8%	58.0%	70.0%	64.2%	50.8%
Grant City	7.6%	7.6%	15.1%	9.4%	11.7%
Darlington	23.5%	23.8%	38.4%	29.7%	7.5%
Maryville	11.1%	10.9%	18.9%	17.1%	25.1%
Burlington Junction.	5.7%	5.6%	9.0%	9.0%	12.2%
Memphis	24.8%	25.2%	25.9%	47.6%	35.2%
Kansas City	58.6%	59.6%	64.5%	51.2%	31.6%

St. Joseph would make practically the same showing as Kansas City, except from Omaha.

The above percentages were arrived at by taking the *sum* of Missouri's proportion, (figured on a mileage basis) of all the rates from 1st class to Class "E", inclusive, and the *sum* of the Missouri Railroad Commissioners' rates from 1st Class to Class "E", inclusive, from the State line.

Unionville, Cainsville, Grant City, Maryville and Burlington Junction are all near the Iowa line, and are probably served by trains crossing the line from Iowa, only "one terminal" being used in the State. It will be seen, however, that to such points the revenue allowed to Missouri on business from Chicago, Peoria, Des Moines, Burlington and Omaha runs down to as low as 5.6% of the Missouri *local* rates, and in only one case (Omaha to Maryville) exceeds 20%.

2444 **Ex. 23.**

State of Missouri—Maximum Freight Rate Matter.

The Wabash Railroad Company.

Actual Earnings on Intra-State Freight Forwarded from Certain Stations During the Month of October, 1905, Compared with Amounts Which Would Have Been Earned on the Same Freight if Missouri Statute Rates Had Been Applied.

Stations.	Actual earnings.	Earnings under Missouri statute and com's rates.
Carrollton	$689.40	$606.67
Palemon	65.29	29.70
Norborne	826.64	567.24
Hardin	159.05	116.63
Lexington Junction	49.99	37.30
Camden	482.72	679.22
Orrick	312.72	270.20
Miltondale	80.46	67.24
Excelsior Springs	310.48	320.00
Milwaukee Junction	19.08	19.08
Missouri City	624.71	686.20
South Liberty	86.44	128.90
Birmingham	135.48	114.48
Randolph	.75	.75
Clifton	43.38	48.38
Salisbury	680.44	648.80
Forest Green	29.80	30.36
Glasgow	1,062.86	1,129.87
Keytesville	165.70	136.41
Dalton	364.64	272.50
Brunswick	656.21	666.72
Triplett	18.21	18.21
Sumner	139.15	146.09
Fountain Grove	7.76	7.76
Bedford	.25	.25
Norville	15.20	27.00
Huntsville	3,361.95	4,413.56
Total	$10,388.76	$11,189.52

Exhibit "G."

2445 Ex. 24. Number was skipped because offers were made.

State of Missouri—Maximum Freight Rate Matter.

The Chicago, Burlington and Quincy Railway Company.

Statement of Gross Earnings, Operating Expenses, and Net Earnings of the Freight Business of the Chicago, Burlington and Quincy Railway Company in Missouri During the Calendar Year 1905, *on the Following Basis.*

First. That of the State freight earnings of $1,646,665.73, shown by Exhibit #1, 74.51% or $1,229,165.94 was derived from carload business and 25.49% or $420,499.79 was derived from less-than-carload business. (These percentages being the ratios, in the case of the Missouri Pacific Railway Company which the revenue from State carload business and State less-than-carload business bore to the total State revenue, as shown by Exhibit #16.)

Second. That of the Interstate freight earnings of $6,735,454.71, shown by Exhibit #1, 89.34% or $6,017,455.24 was derived from carload business and 10.66% or $717,999.47 from less-than-carload business. (These percentages being the ratios, in the case of the Missouri Pacific Railway Company, which the revenue from Interstate carload business and Interstate less than-carload business bore to the total Interstate revenue, as shown by Exhibit #16.)

Third. That the earnings from State carload business in Missouri, amounted to 1.26033 cents per ton per mile, or the same as the earnings per ton per mile of the Missouri Pacific Railway Company from its State carload business in Missouri.

Fourth. That the earnings from State less-than-carload business in Missouri amounted to 4.52122 cents per ton per mile, or the same as the earnings per ton per mile of the Missouri Pacific Railway Company from its State less-than-carload business in Missouri.

Fifth. That the earnings from Interstate carload business in Missouri amounted to .58331 cents per ton per mile, or the same as the earnings per ton per mile of the Missouri Pacific Railway Company from its Interstate carload business in Missouri.

Sixth. That the earnings from Interstate less-than-carload business in Missouri amounted to 2.4814 cents per ton per mile, or the same as the earnings per ton per mile of the Missouri Pacific Railway Company from its Interstate less-than-carload business in Missouri.

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Seventh. That the Total operating expenses of the State carload business were twice as much per ton per mile as the total operating expenses of the Interstate carload business.

Eighth. That the total operating expenses of the less-than-carload business, both State and Interstate, were three (3) times, five (5) times or seven (7) times as much per ton per mile as the total operating expenses of the Interstate carload business.

	Total tons, one mile.	Per ton per mile.	Total amount.	Per ton per mile.	Total amount.	Per ton per mile.	Total amount.
		Operating expenses divided on basis of State carload costing twice and *all* less-than-carload three times as much per ton per mile as Interstate carload business.		Operating expenses divided on basis of State carload costing twice and *all* less-than-carload five times as much per ton per mile as Interstate carload business.		Operating expenses divided on basis of State carload costing twice and *all* less-than-carload seven times as much per ton per mile as Interstate carload business.	
Interstate carload business	1,031,605,020						
Gross Earnings		.0058331	$6,017,455.24	.0058331	$6,017,455.24	.0058331	$6,017,455.24
Operating Expenses		.0034809	3,590,958.73	.0032895	3,393,438.92	.0031180	3,216,503.84
Net Earnings		.0023522	$2,426,496.51	.0025436	$2,624,016.32	.0027151	$2,800,951.40
Interstate less-than-Carload Business	29,811,368						
Gross Earnings		.0240814	$717,999.47	.0240814	$717,999.47	.0240814	$717,999.47
Operating Expenses		.0104427	311,297.20	.0164475	$490,290.76	.0218264	650,664.49
Net Earnings		.0136387	$406,702.27	.0076339	$227,708.71	.0022550	$67,334.98
State Carload Business	97,526,516						
Gross Earnings		.0126033	$1,229,165.94	.0126033	$1,229,165.94	.0126033	$1,229,165.94
Operating Expenses		.0069618	678,968.49	.0065790	641,635.28	.0062360	608,185.10
Net Earnings		.0056415	$550,197.45	.0060243	$587,530.66	.0063673	$620,980.84

The Chicago, Burlington and Quincy Railway Company.

Statement of Gross Earnings, Operating Expenses, and Net Earnings, etc.—Continued.

	Total tons, one mile.	Operating expenses divided on basis of State carload costing twice and *all* less-than-carload three times as much per ton per mile as interstate carload business.		Operating expenses divided on basis of State carload costing twice and *all* less-than-carload five times as much per ton per mile as interstate carload business.		Operating expenses divided on basis of State carload costing twice and *all* less-than-carload seven times as much per ton per mile as interstate carload business.	
		Per ton per mile.	Total amount.	Per ton per mile.	Total amount.	Per ton per mile.	Total amount.
State Less-than-Carload Business.....	9,300,582						
Gross Earnings		.0452122	$420,499.79	.0452122	$420,499.79	.0452122	$420,499.79
Operating Expenses		.0104427	79,122.48	.0164475	152,981.94	.0218260	202,993.47
Net Earnings		.0347695	$323,377.31	.0287647	$267,517.85	.0233862	$217,506.32
Total Interstate Business.....	1,061,416,388						
Gross Earnings		.....	$6,735,454.71	.....	$6,735,454.71	.....	$6,735,454.71
Operating Expenses		.....	3,902,255.93	.....	3,883,729.68	.....	3,867,168.33
Net Earnings		.....	$2,833,198.78	.....	$2,851,725.03	.....	$2,868,286.38

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Total State Business	106,827,098						
Gross Earnings			$1,649,665.73		$1,649,665.73		$1,649,665.73
Operating Expenses			776,090.97		794,617.22		811,178.57
Net Earnings			$873,574.76		$855,048.51		$838,487.16
Total Freight	1,168,243,486						
Gross Earnings			$8,385,120.44		$8,385,120.44		$8,385,120.44
Operating Expenses			4,678,346.90		4,678,346.90		4,678,346.90
Net Earnings			$3,706,773.54		$3,706,773.54		$3,706,773.54
Ratio of Operating Expenses to Gross Earnings:							
Interstate Carload Business			59.67%		56.39%		59.67%
Interstate Less-than-Carload, Business			43.36		68.29		90.62
All Interstate Business			57.94		57.66		57.42
State Carload Business			55.24		52.20		49.48
State Less-than Carload Business			23.10		36.38		48.27
All State Business			47.05		48.17		49.17
All Freight			55.79		55.79		55.79

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2448 EXHIBIT 25*a*.

(*a*) Exhibits 25 and 26 are prepared upon the theory of certain assumptions therein stated, but adopt as the basis the percentages and earnings per ton per mile as shown by Exhibit 16.

(*b*) Exhibit 16*a* and Exhibit 27*a* show that Exhibit 16 should not be applied to the Burlington road and is worthless for any purpose.

(*c*) None of the figures used in Exhibits 25 and 26 were used in the Missouri Pacific case, so that it is fair to presume that they have been abandoned. As a matter of fact, no figure therein is at all applicable to the Burlington Company, and affords no aid whatsoever in solving the question of cost of doing the state business upon the lines of that company. They do, however, show in connection with the comparisons made between Exhibits 16, 27 and 36 as set forth in Exhibits 16*a*, 27*a*, 36*a*, how useless the ton mile basis is in dividing the expenses as between state and interstate freight.

State of Missouri—Maximum Freight Rate Matter.

The Chicago, Burlington and Quincy Railway Company.

Statement of Gross Earnings, Operating Expenses, and Net Earnings of the Freight Business of the Chicago, Burlington and Quincy Railway Company, in Missouri, During the Calendar Year 1905, *on the Following Basis.*

First. That of the state freight earnings of $1,649,665.73, shown by Exhibit #1, 74.51% or $1,229,165.94 was derived from carload business and 25.49% or $420,499.79 was derived from lass-than-carload business. (These percentages being the ratios in the case of the Missouri Pacific Railway Company, which the revenue from State carload business and State less-than-carload business bore to the total state revenue, as shown by Exhibit #16.)

Second. That of the Interstate freight earnings of $6,735,454.71, shown by Exhibit #1, 89.34% or $6,017,-455.24 was derived from carload business and 10.66% or $717,999.47 from less-than-carload business. (These percentages being the ratios, in the case of the Missouri Pacific Railway Company, which the revenue from Interstate carload business and Interstate less-than-carload business bore to the total State Revenue, as shown by Exhibit #16.)

Third. That the earnings from State carload business, in Missouri, amounted to 1.26033 cents per ton per mile, or the same as the earnings per ton per mile of the Missouri Pacific Railway Company from its State carload business in Missouri.

Fourth. That the earnings from State less-than-carload business in Missouri amounted to 4.52122 cents per ton per mile, or the same as the earnings per ton per mile of the Missouri Pacific Railway Company from its State less-than-carload business in Missouri.

Fifth. That the earnings from Interstate carload business in Missouri amounted to .58331 cents per ton per mile, or the same as the earnings per ton per mile of the Missouri Pacific Railway Company from its Interstate car load business in Missouri.

Sixth. That the earnings from Interstate less-than-carload business in Missouri amounted to 2.40814 cents per ton per mile, or the same as the earnings per ton per mile of the Missouri Pacific Railway Company from its Interstate less-than-carload business in Missouri.

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Seventh. That of the total operating expenses in connection with State carload freight, that portion known as "conducting Transportation" was twice or five times as great per ton per mile as on Interstate carload business.

Eighth. That of the total operating expenses in connection with the less-than-carload business, both State and Interstate, that portion known as "conducting Transportation" was three (3) times, five (5) times, seven (7) times, or fifteen (15) times as great per ton per mile as on the Interstate carload business.

	Total tons, one mile.	Operating expenses divided on basis of conducting transportation portion of same on State carload costing twice and on *all* less-than-carload three times as much per ton per mile as interstate carload business.		Operating expenses divided on basis of conducting transportation portion of same on State carload costing twice and on *all* less-than-carload five times as much per ton per mile as interstate carload business.		Operating expenses divided on basis of conducting transportation portion of same on State carload costing twice and on *all* less-than-carload seven times as much per ton per mile as interstate carload business.		Operating expenses divided on basis of conducting transportation portion of same on State carload costing five and on *all* less-than-carload fifteen times as much per ton per mile as interstate carload business.	
		Per ton per mile.	Total amount.	Per ton per mile.	Total amount.	Per ton per mile.	Total amount.	Per ton per mile.	Total amount.
Interstate Carload Business	1,031,605,020								
Gross Earnings.		.0058331	$6,017,455.24	.0058331	$6,017,455.24	.0058331	$6,017,455.24	.0058331	$6,017,455.24
Operating Expenses.....		.0036861	3,802,607.14	.0035601	3,672,595.89	.0034424	3,551,192.78	.0027411	2,827,686.43
Net Earnings		.0021570	$2,214,848.10	.0022730	$2,344,859.35	.0023907	$2,466,262.46	.0030920	$3,189,768.81
Interstate Less-than-Carload Business.....	29,811,368								
Gross Earnings.		.0240814	$717,999.47	.0240814	$717,999.47	0.240814	$717,999.47	.0240814	$717,999.47
Operating Expenses.....		.....	236,116.17	.....	349,940.34	.....	456,232.39	.....	738,757.76
Net Earnings		.....	$481,883.30	.....	$368,059.13	.....	$261,767.08	.....	$20,758.29

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The Chicago, Burlington and Quincy Railway Company.

Statement of Gross Earnings, Operating, Expenses, and Net Earnings, etc.—Continued.

	Total tons, one mile.	Operating expenses divided on basis of conducting transportation portion of same on State carload costing twice and on *all* less-than-carload three times as much per ton per mile as interstate carload business.		Operating expenses divided on basis of conducting transportation portion of same on State carload costing twice and on *all* less-than-carload five times as much per ton per mile as interstate carload business.		Operating expenses divided on basis of conducting transportation portion of same on State carload costing twice and on *all* less-than-carload seven times as much per ton per mile as interstate carload business.		Operating expenses divided on basis of conducting transportation portion of same on State carload costing five and on *all* less-than-carload fifteen times as much per ton per mile as interstate carload business.	
		Per ton per mile.	Total amount.	Per ton per mile.	Total amount.	Per ton per mile.	Total amount.	Per ton per mile.	Total amount.
State Carload Business.....	97,526,516								
Gross Earnings.		.0126033	$1,229,165.94	.0126033	$1,229,165.94	.0126033	$1,229,165.94	.0126033	$1,229,165.94
Operating Expenses.....		.....	565,939.62	.....	546,618.06	.....	528,559.63	.....	881,447.34
Net Earnings		.....	$663,226.32	.....	$682,547.88	.....	$700,606.31	.....	$347,718.60
State Less-than-Carload Business.....	9,300,582								
Gross Earnings.		.0452122	$420,499.79	.0452122	$420,499.79	.0452122	$420,499.79	.0452122	$420,499.79
Operating Expenses.....		.....	73,683.97	.....	109,192.61	.....	142,362.10	.....	230,455.37
Net Earnings		.....	$326,815.82	.....	$311,207.18	.....	$278,137.69	.....	$190,044.42

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	Per ton per mile.	Total amount.	Per ton per mile.	Total amount.	Per ton per mile.	Total amount.	Per ton per mile.	Total amount.
Total Interstate Business:								
Gross Earnings		$6,735,454.71		$6,735,454.71		$6,735,454.71		$6,735,454.71
Operating Expenses		4,038,723.31		4,022,536.23		4,007,425.17		3,566,444.19
Net Earnings		$2,696,731.40		$2,712,918.48		$2,728,029.54		$3,169,010.52
Total State Business:								
Gross Earnings		$1,649,665.73		$1,649,665.73		$1,649,665.73		$1,649,665.73
Operating Expenses		639,623.59		655,810.67		670,921.73		1,111,902.71
Net Earnings		$1,010,042.14		$993,855.06		$978,744.00		$537,763.02
Total Freight:								
Gross Earnings		$8,385,120.44		$8,385,120.44		$8,385,120.44		$8,385,120.44
Operating Expenses		4,678,346.90		4,678,346.90		4,678,346.90		4,678,346.90
Net Earnings		$3,706,773.54		$3,706,773.54		$3,706,773.54		$3,706,773.54
Ratio of Operating Expenses to Gross Earnings:								
Interstate Carload Business		63.19%		61.03%		59.01%		46.99%
Interstate less-than-carload Business.		32.89		48.74		63.55		102.89
All Interstate Business		59.96%		59.72%		59.50%		52.95%
State Carload Business		46.04%		44.47%		43.00%		71.71%
State less-than-carload business		17.52		25.97		33.85		54.81
All State Business		38.77%		39.75%		40.67%		67.40%
All Freight		55.79%		55.79%		55.79%		55.79%

2551 The gross revenue from interstate freight business, as shown by the way-bills of the Missouri Pacific Railway Company which we examined, amounted, as shown by Exhibit No. 16, to $191,244.10, of which $170,862.73, or 89.34 per cent, was derived from car load business; and $20,381.37, or 10.66 per cent, from less than car load business.

The gross earnings from the State business amounted to $92,473.64, of which $68,900.67, or 74.51 per cent, was derived from car load business and $23,572.97, or 25.49 per cent, from less than car load business.

The interstate freight earnings on the Burlington road, for the year 1905, amounted, as shown by Exhibit 1, page 1, to $6,735,454.71 and if the same ratio obtained on the Burlington railroad in the division of these earnings between car load, and less than car load business, as obtained on the Missouri Pacific railroad, then 89.34 per cent, or $6,017,455.24 was derived from car load business, and 10.66 per cent, or $717,999.47, from less than car load business.

The State earnings of the Burlington Company for the year 1905, amounted to $1,649,665.73, and if the same ratio of these earnings were derived from car load and less than car load business as in the case of the Missouri Pacific, then 74.51 per cent, or $1,229,165.94, was derived from car load business, and 25.49 per cent, or $420,499.79, from less than car load business.

On the basis outlined above, and even estimating that it cost twice as much per ton per mile to handle the State car load business as it cost to handle the interstate car load business, and that it cost even five times as much per ton per mile to handle the less than car load business as it cost to handle the interstate car load business, the result of the Burlington company's freight operations for the year 1905, would be correctly stated as follows:

2552

	On 50% basis, shown by Exhibit 17.	On 60% basis, shown by Exhibit 18.
Interstate Carload Earnings	$6,017,455.24	$6,017,455.24
" " Expenses	3,008,727.62	3,610,473.14
" " Net Earnings	3,008,727.62	2,406,982.10
" Less than Carload Earnings	717,999.47	717,999.47
" " " " Expenses	435,323.08	521,770.21
" " " " Net Earnings	282,676.39	196,229.26
State Carload Earnings	1,229,165.94	1,229,165.94
" " Expenses	569,718.41	682,801.68
" " Net Earnings	659,447.53	546,364.26
" Less than Carload Earnings	420,499.79	420,499.79
" " " " Expenses	135,779.38	162,775.47
" " " " Net Earnings	284,720.41	257,724.32

Total Interstate Earnings.....	6,735,454.71	6,735,454.71
" " Expenses	3,444,050.70	4,132,243.35
" " Net Earnings	3,291,404.01	2,603,211.36
" State Earnings	1,649,665.73	1,649,665.73
" " Expenses	705,497.79	845,577.15
" " Net Earnings.....	944,167.94	804,088.58
Ration of Total Interstate Expenses to Total Interstate Earnings.....	51.13%	61.35%
Ratio of Total State Expenses to Total State Earnings	42.77%	51.26%
Total Earnings—State and Interstate	$8,385,120.44	$8,385,120.44
" Expenses " " "	4,149,548.49	4,977,820.50
" Net Earnings " " "	4,235,571.95	3,407,299.94
Ratio of Total Expenses to Total Earnings.....	49.49%	59.36%

2553 EXHIBIT 27*a*.

(*a*) Exhibit 27 is the same as Exhibit 19 in the Missouri Pacific case. Exhibit 5*c* in that case was an exhibit showing the freight earnings of that road for each month in 1905. The criticisms made in Exhibit 19*b* in that case are well founded and correct, and without repetition, adopted and reproduced here as Exhibit 27*b*. For a more intelligent consideration of Exhibit 27*b*, Exhibit 5*c* in that case is also here reproduced as Exhibit 27*c*.

(*b*) Exhibit 19 as a matter of fact and experience, is in no wise applicable to, or representative of the Burlington Company. Experience shows that none of the figures therein given could apply to the Burlington road.

2554 The following comparison of Exhibit- 19 a*m*d 5*c* in the Missouri Pacific case, reproduced here as Exhibits 27 and 27*c*, shows that October, 1905, was not an average month upon the Missouri Pacific Railroad to say nothing of attempting to apply it to the Burlington:

	State.	Interstate.	Total.
Year	$1,632,856.14	$3,777,390.45	$5,410,246.59
1/12	136,071.34	314,782.54	450,853.88
October	146,976.02	351,017.74	497,993.76
Difference..	10,904.68	36,235.20	47,139.88
Error — Excess in October.....	8%	11½%	10½%

(*c*) It would be unfair to apply to the Burlington Company the figures in Exhibit 27 for one purpose only, because if taken and applied to and for one purpose, they should be for all. An illustration or two will show that the result would be so much in favor of the Burlington Company that the state would object to their being so adopted. The percentage of state freight was shown therein to be of tonnage 24.74, of ton miles 13.98 and as applied to the whole year of the Missouri Pacific business, Exhibit 30*a* in that case these percentages were shown to be, tonnage 29.09, ton miles 16.86. Exhibit 5*c* (27*c* here) shows the revenue percentage as 29.27. In the Burlington case the percentage of State freight revenue is 19.67 or a difference of 29.27—19.67=9.60%, which in this case would be 9.60% of 66.63%, or 6.4% of all operating expenses, $8,078,807.55, or $517,043.68. Comparing Exhibit 27 with Exhibit 36, the difference in tonnage percentage is 24.74—13.71=11.03%, which of 66.63, is 7.35% of all operating expenses, $8,078,807.55, or $593,792.35. Making a like comparison of ton miles percentages, the difference is 13.98—8.67=5.31, which of 66.63% is 3.54% of all operating expenses, $8,078,807.55, or $285,989.79.

2555 So that if Missouri Pacific percentages could be applied to Exhibit 41, complainant's final exhibit, Item 2 would be increased $517,043.68 upon the basis of revenue, $593,792.35 upon the basis of tonnage, and $285,989.79 upon the basis of ton mileage.

(*d*) Exhibit 16 purports to give figures from part of the Missouri Pacific stations for October 1905. Exhibit 27 purports to give figures of all Missouri Pacific business for the same month. Exhibit 16 has already by Exhibit 16*a* been compared with Exhibit 36 giving the business of the Burlington Company for September, 1906. Some further comparison will show that which has been asserted as a fact, that the Missouri Pacific figures when applied to the Burlington Company have only a tendency to confuse. The result of a comparison between Exhibits 27 and 36 is this:

	Perc. tons.		Perc. revenue.		Perc. ton miles.	
	Inters.	State.	Inters.	State.	Inters.	State.
Ex. 27	75.26	24.74	74.27	25.73	86.02	13.98
Ex. 36	86.29	13.71	83.64	16.36	91.33	8.67
Difference..		11.03	.....	9.37	.....	5.31

Aver. rev. per ton.		Aver. rev. per ton mile.		Aver. No. miles.	
Inters.	State.	Inters.	State.	Inters.	State.
.8220	.8663	.7796	1.6619	105	52
1.1177	1.3756	.8265	1.7032	135	81
.2957	.5093	.0469	.0413	30	29

The total state freight earnings for 1905 for the Burlington as shown by Exhibit 1 are $1,649,665.73; of Missouri Pacific (See Ex. 5*c*, Mo. Pac. Case, reproduced here as Ex. 27*c*), $1,632,856.14, mak-

ing a total difference for one year of $16,809.59, or for one month $1400.80. Comparing the showings for one month in Exhibits 27 and 36, as between the Missouri Pacific and Burlington, there is this result:

State Freight.

	Revenue.	Tons.	Ton miles.
Ex. 27	130,837.56	151,033	7,872,906
Ex. 36	118,927.35	86,458	6,982,761
Diff. 1 Mo.	11,910.21	64,575	890,145
Diff. 12 Mos.	142,922.52	774,900	10,681,740

Something is radically wrong *when* with an attempt to apply the figures of one company to the earnings of the other.

2556 EXHIBIT 27*b*, Which in the Missouri Pacific Case is Exhibit 19*b*.

Review of State Exhibit 19.

(*a*) Exhibit 19 purports to be a statement of tonnage ton miles and freight earnings (except switching and demurrage) for October, 1905. Exhibit 5*c* is a statement of actual state and interstate earnings, exclusive of switching and demurrage, for each month of the year 1905. This statement is made for the purpose of showing that every figure found in Exhibit 19 for some reason or another must be incorrect, and hence, as Exhibit 19, is used as a basis of all their figures given by the state experts as to the claim of net earnings, they are thereby shown to be upon a wrong basis.

(*b*) Exhibit 5*c* shows that for October such freight earnings were 9.2% of those for the entire year, which would make a multiple of about 10.5 to make October, 1905, represent the business for the entire year of 1905.

(*c*) Comparing the October earnings as between Exhibits 19 and 5*c*, there is this result:

	Interstate.	State.	Total.
Exhibit 19	$377,704.90	$130,837.56	$508,542.46
Exhibit 5*c*	351,017.74	146,976.02	497,993.76
Difference	$26,687.16	$16,138.46	$10,548.70

Exhibit 10 as a whole has, therefore, $10,548.70 more than was actually earned as shown by Exhibit 5*c*, for the month of October, 1905, and using the multiple of 10.5 for the year $110,761.35. Its interstate earnings as shown by Exhibit 19 exceed those actually made as shown by Exhibit 5*c*, $26,687.16 for the month, and using the same multiple, for the year $280,215.18. The state earnings for

the month as shown by Exhibit 19 are $16,138.46 less than the actual earnings for the month, and using the same multiple for the year $169,453.85 less.

(*d*) Exhibit 19 shows that 86.63 cents per ton was received for all state freight. If this were correct, to ascertain the number of tons of state freight actually hauled, it would only be necessary to divide the revenue actually received from the state freight (Ex. 5*c*) by the sum thus received per ton. There was actually received
2557 for state freight (Ex. 5*c*) in October, 1905, $146,976.02. This divided by .8663, the amount received per ton (Ex. 19) makes the total for the month 169,659 tons, or 18,626 more than shown by Exhibit 19. The excess for the year, using the same multiple of 10.5 being 195,573 tons. The interstate tonnage ascertained in the same way is 427,029, as shown by dividing the interstate earnings (Ex. 5*c*), $351,017.74, by .8220 (Ex. 19) making 32472 tons less hauled in October, 1905, than shown in Exhibit 19; and using the same multiple for the year, 340,956 tons. The total tonnage thus shown to be hauled, interstate 427,029 and state 169,659, equals 596,688 tons for the month, as against 610,534 shown by Exhibit 19, or a total difference for the month of 13,846 tons and for the year, using the same multiple, 145,383 tons.

(*e*) The same result follows as to tons per mile. Exhibit 19 shows the earnings per ton per mile were, interstate .7796 cents and state 1.6619 cents. To ascertain the number of ton miles, if the average amount received be as stated in Exhibit 19, the actual earnings as shown by Exhibit 5*c* should be divided by these percentages. When this is done, this is the result: Actual state earnings for October, 1905, Exhibit 5*c*, $146,976.02; divided by 1.6619, the amount received per ton per mile (Ex. 19), makes the state ton mile 8,843,855 or 970,949 ton miles for the month more than as shown by Exhibit 19; and, using the same multiple, for the year 10,194,964. Actual interstate earnings for October, 1905 (Ex. 5*c*), $351,017.74, divided by .7796, the amount received per ton per mile (Ex. 19) makes the total interstate ton miles for the month 45,025,364, or 3,420,317 ton miles less than the 48,445,681 shown by Exhibit 19. This, using the same multiple would make for the year 35,913,328 ton miles less. The total state, 8,843,855, and interstate ton miles, 45,025,364, thus ascertained, equals 53,869,219, which, as against 56,318,587 shown by Exhibit 19, makes a deficit for the month of 2,449,368; and using the same multiple, for the year 25,712,364.

Every exhibit submitted by the state for the purpose of showing the net earnings, used as a basis the ton miles and the amount received per ton per mile as shown by Exhibit 19 and this
2558 exhibit is prepared with a view of showing the absolute uncertainty and inaccuracy thereof in every respect, even upon the state's own theory.

2559 EXHIBIT 27*c*, Which is Exhibit 5c in Missouri Pacific Case.

Ex. 5c.

State of Missouri—Maximum Freight Rate Matter, Missouri Pacific Railway Company.

Summary of Monthly Totals of Freight Earnings in Missouri of the Missouri Pacific Railway Company for the Year Ending December 31, 1905.

1905.	State freight.	Interstate freight.	Total.
January	$115,403.47	$277,784.20	$393,187.67
February	111,645.58	229,037.78	340,683.36
March	152,809.70	326,660.94	479,470.64
April	129,321.85	276,474.48	405,796.33
May	137,243.27	300,371.50	437,614.77
June	131,709.89	282,492.25	414,202.14
July	158,820.98	340,362.83	499,183.81
August	158,210.23	377,186.09	535,396.32
September	139,446.54	332,920.82	472,367.36
October	146,976.02	351,017.74	497,993.76
November	135,122.70	358,541.07	493,663.77
December	116,145.91	324,540.75	440,686.66
Total	$1,632,856.14	$3,777,390.45	$5,410,246.59

The above detailed figures were taken from the sheets prepared by the Missouri Pacific Railway Company in connection with the Maximum Freight Rate Matter.

2560 Shipment of 20 cases of Eggs, weight 50 pounds each moving from Osborn, Mo., to St. Louis:

No. 1. 10 cases originating at Osborn and destined to New Orleans, La. Through rate 95 cts. per cwt. as shown in S. Frink's tariff #1-P of which C. B. & Q. receive 40% as shown in C. B. & Q. G. F. O. 21000, and pay the St. Louis bridge charge of 5 cts. per cwt. out of their proportion. 40% of 95 cts.—38 cts. minus 5 cts.—33 cts.
500 lbs. at 33 cts. per cwt..... $1.65

No. 2. 10 cases originating at Osborn and destined to St. Louis. Through rate 45 cts. per cwt. as shown in C. B. & Q. tariff G. F. O. # 9700 of which the C. B. & Q. receive entire revenue.
500 lbs. at 45 cts. per cwt..... 2.25

Total 1000 pounds—Revenue in Mo..... 3.90

Summary:

No. 1, the inter-state shipment, furnishes 50% of the tonnage and 42.3% of the revenue.

No. 2, the intra-state shipment, furnishes 50% of the tonnage and 57.7% of the revenue.

2561 Train of 30 cars of Corn moving from Kansas City to St. Louis as follows:

No. 1. 10 cars, weight 30000 lbs. each, originating West of Kansas City and destined to Memphis, Tenn. Through rate 10¾ cts. per cwt. as shown in C. B. & Q. G. F. O. 16638 of which C. B. & Q. Receive 50% as shown in C. B. & Q. G. F. O. 21000 and pay 1¢ per cwt. bridge out of their proportion. 50% of 10¾—5.4 less 1 ct. Bdge.—4.4.
300,000 lbs. at 4.4 ..... $132.00

No. 2. 10 cars, weight 30000 lbs. each originating West of Kansas City and destined to Mobile, Ala. Through rate 16¾ cts. per cwt. as shown in C. B. & Q. G. F. O. 16638 of which the C. B. & Q. receive 40% as shown in C. B. & Q., G. F. O. 21000 and pay one cent per cwt. Bridges out of their proportion. 40% of 16¾—6.7 less 1 cent Bdge. 5.7 300,000 lbs. at 5.7 ..... 171.00

No. 3. 10 cars weight 30000 lbs. each originating at Kansas City (proper) and destined to St. Louis (proper). Through rate 12¢ per cwt. as shown in W. T. L. 201 of which the C. B. & Q. receive all.
300,000 lbs. at 12¢ 360.00

663.00

2562 Summary:

Nos. 1 and 2, the inter-state shipment furnish 66⅔ of the tonnage and 45.7% of the revenue.

No. 3, the intra-state shipment, furnished 33⅓% of the tonnage and 54.3% of the revenue.

2563 Shipment of 2 cars of lime, weight 40000 pounds each from St. Louis to Kansas City:

No. 1. Originating at St. Louis and destined to Omaha, Nebr. Through rate 12 cts. per cwt. as shown in W. T. L. tariff #201—Lines beyond Kansas City receiving 6 cts. per cwt. as shown in Trans-Missouri Arbitrary sheet #1-E.
40000 lbs. at 6¢ cwt. 24.00

No. 2. Originating at St. Louis and destined to Kansas City, Mo. Through rate 11 cts. per cwt. as shown in W. T. L. Tariff #201 of which C. B. & Q. receives entire revenue.
40000 lbs. at 11 cts. 44.00

Total 80000 pounds—Revenue in Missouri.. $68.00

Summary:

No. 1, The Inter-state shipment, furnishes 50% of the tonnage and 35.3% of the revenue.

No. 2, the Intra-state shipment, furnishes 50% of the tonnage and 64.7% of the revenue.

2564 Train of 30 cars of flour, moving from Kansas City to St. Louis as follows:

No. 1. 10 cars wt. 30000 lbs. each, originating beyond Kansas City and destined to Evansville, Ind. for Southeastern territory. Through rate 7¾¢ per cwt. as shown in C. B. & Q., G. F. O. 16638 of which the C. B. & Q. receives 72½% as shown in C. B. & Q., G. F. O. 21000, and pay bridge charge of 1½ cts. per cwt. out of their proportion. 72½% of 7¾ cts.—5.6 less 1½ cts.—4.1.

300,000 lbs. at 4.1 cts..... $123.00

No. 2. 10 cars wt. 30000 lbs. each, originating beyond Kansas City and destined to New Orleans, La. for export. Through rate 16¼ cts. per cwt. as shown in C. B. & Q., G. F. O. 16638 of which the C. B. & Q. receive 40% as shown in C. B. & Q., G. F. O. 21000, and pay bridge charge of 1½¢ per cwt. out of their proportion. 40% of 16¼—6.5 less 1½ cts.—5.

300,000 lbs. at 5 cts..... 150.00

No. 3. 10 cars originating at Kansas City (Proper) and destined to St. Louis (proper). Through rate 14 cts. per cwt. as shown in W. T. L. 201 of which the C. B. & Q. receive all.

300,000 lbs. at 14 cts..... 420.00

2565 Total wt. 900,000 lbs. revenue in Missouri.. 693.00

Summary:

Nos. 1 and 2, the inter-state shipments, furnish 66⅔% of the tonnage and 39.4% of the revenue.

No. 3, t-e intra-state shipment, furnishes 33⅓% of the tonnage and 60.6% of the revenue.

2566 *Grain & Grain Products.*

From Kansas City to New Orleans & Mobile (when originating at points West of Kansas City) Rates shown in C. B. & Q., G. F. O. 16638.

Divisions shown in C. B. & Q., G. F. O. 21000.

Rates and divisions apply, via E. St. Louis in connection with M. & O. L. & N., and all other Southern Lines.

Distance from Kansas City to St. Louis..... 343
St. Louis to Cairo..... 148
Cairo to New Orleans..... 553
Cairo to Mobile..... 492

Making Kansas City—Cairo 491
—Mobile 983
—N. O. 1044

2567 Train load of 30 cars of horses loaded in 36 foot cars moving from Kansas City to St. Louis as follows:

No. 1. 10 cars from Kansas City to Mobile, Ala. Through rate $121.00 per car as shown in S. Frink's tariff 1 P. of which the C. B. & Q. receive 40% as shown in C. B. & Q., G. F. O. 21000 and pay $4.00 per car bridge charge out of their proportion. 40% of 121.00—48.40 less $4.00 Bridge—44.00.
10 cars at 44.40..... $444.00

No. 2. 10 cars from Kansas City to Chicago. Through rate $82.36 per car as shown in W. T. L. 201 of which the C. B. & Q. receive $49.36 per car, and pay $4.00 per car bridge out of their proportion.
10 cars at $45.36..... 453.60

No. 3. 10 cars from Kansas City to St. Louis. Through rate $59.16 per car as shown in W. T. L. 201 of which C. B. & Q. receive all.
10 cars at 59.16..... 591.60

1489.20

Summary:

Nos. 1 and 2, the interstate shipments, furnish 66⅔% of the tonnage, and 60.9% of the revenue.

No. 3. The intra-state shipment, furnisges 33⅓% of the tonnage and 39.1% of the revenue.

2568 **Live Stock.**

Carloads—36 foot car from Kansas City to New Orleans and Mobile:

Horses and Mules.....	121.00	per car
Cattle and Calves.....	110.00	" "
Hogs	110.00	" "
Sheep	89.00	" "

These rates are carried in S. Frink's tariff 1-P.

Divisions.	C., B. & Q.	South.
Cairo & Evansville.....	72½%	27½%
New Orleans & Mobile.....	40%	60%

C. B. & Q. pay bridge charge at St. Louis out of their proportion as follows:

Corn and Oats	.01¢ per cwt.
Flour	1½¢ " "
Live stock (all kinds)	4.00 per car

Flour.

To Cairo & Evansville	11¾¢
" " " "	
(For points in Southeastern territory)	7¾¢
For New Orleans & Mobile	17¾¢
" " " "	
(For export to Europe)	16¼¢

Corn and Oats.

To Cairo & Evansville (proper)	10¾¢
" "	
(For points in Southeastern territory)	6¾¢
" New Orleans & Mobile	16¾¢
" " " "	
(For export to Europe)	15¼¢

2569 Shipment of 3 cars of cement, weight 40000 lbs. each moving from St. Louis to Kansas City as follows:

No. 1. Originating at Chicago and destined to Kansas City. Through rate 12½¢ per cwt. as shown in W. T. L. tariff 201 of which C. B. & Q. receive 6½¢ per cwt. less 1½¢ per cwt. bridge as shown in Chicago-St. Louis Traffic Assn. D/s 108 (C. B. & Q., G. F. O. 5884).
40000 lbs. at 5 cts. cwt. $20.00

No. 2. Originating at St. Louis and destined to Denver, Colo. Through rate 25 cents per cwt. as shown in Trans-Missouri Assn. Tariff 11-D. of which the C. B. & Q. receive 29½% as shown in Trans-Missouri Percentage Book No. 1 29-1/2% of 25¢—7.38 cts.
40000 lbs. at 7.38 ..... 29.52

No. 3. Originating at St. Louis and destined to Kansas City. Through rate 10¢ per cwt. as shown in W. T. L. tariff 201, of which the C. B. & Q. receive all.
40000 lbs. at 10¢ cwt. 40.00

Total Weight 120,000 earnings in Missouri. $89.52

Summary:

Nos. 1 and 2, the interstate shipments, furnish 66⅔% of the tonnage and 55.32% of the revenue.

No. 3, the intra-state shipment, furnishes 33⅓% of the tonnage and 44.68% of the revenue.

2570 Shipment of 3 cases of Dry Goods, weight 500 lbs. each, moving from St. Louis to Kansas City, as follows:

No. 1. Originating at Chicago and destined to Kansas City. Through rate 80 cts. per cwt. as shown in W. T. L. Tariff 201—of which C. B. & Q. receive 44 cts. per cwt., and pay bridge charge of 5 ctw. per cwt. as per Chicago-St. Louis Traffic Assn. D/S 108.
511 lbs. at 39¢ per cwt..... $1.95

No. 2. Originating at St. Louis and destined to Ogden, Utah. Through rate $2.90 per cwt. as shown in Trans. Missouri Tariff 20-C of which C. B. & Q. receive 17% as shown in Trans-Missouri Percentage Book No. 1.
17% of $2.90—49.3 cents—500 lbs. at 49.3..... 2.47

No. 3. Originating at St. Louis and destined to Kansas City. Through rate 60 cts. per cwt. as shown in W. T. L. 201 of which the C. B. & Q. receives all.
500 lbs. at 60¢..... 3.00

Total—Weight—1500 earnings in Missouri. $7.42

Summary:

Nos. 1 and 2, the interstate shipments, furnish 66⅔% of the tonnage and 59.57% of the revenue.

No. 3, the intra-state shipment, furnished 33⅓% of the tonnage and 40.43% of the revenue.

2571 Shipment of 2 cars of Furniture moving from St. Louis to Kansas City, weight 20000 lbs. each as follows:

No. 1. Originating at Chicago and destined to Kansas City. Through rate 30¢ per cwt. as shown in W. T. L. tariff #201—of which the C. B. & Q. receive 17¢ per cwt. and pay St. Louis bridge charge of $5.00 per car out of their proportion, as shown in Chicago, St. Louis Traffic Assn. D/S 108 (C. B. & Q., G. F. O. 5884).
20000 lbs. at 17¢—$34.00 minus $5.00 bridge.... $29.00

No. 2. Originating at St. Louis and destined to Kansas City. Through rate 22½¢ per cwt. as shown in W. T. L. tariff #201 of which the C. B. & Q. receives all.
20000 lbs. at 22½ cts..... 45.00

Total weight 40000 earnings in Missouri... $74.00

Summary:

No. 1. The Interstate shipment, furnished 50% of the tonnage and 39.2% of the revenue.

No. 2. The Intra-state shipment, furnishes 50% of the tonnage and 60.8% of the revenue.

2572 EXHIBIT 28*a*.

(*a*) Exhibit 28 compiles statements based upon the applicability of Exhibit 16 to the Burlington road. As shown by Exhibits 16*a*, 27*a* and 36*a*, the exhibit is not applicable nor of any value.

(*b*) As a matter of fact, the figures given and results reached in Exhibit 28 are in no wise applicable to, or representative of any situation or condition upon the Burlington road. Any figures made upon the assumptions adopted in Exhibit 28 would be useless, because they would give results far from the facts as shown by actual experience upon the Burlington.

2573 Books.

Ex. 29. Annual Statements.
30. " "
31. " "
32. " "
33. " "

ANNUAL STATEMENT

OF THE

Chicago Burlington and Quincy Railroad Company

TO THE

RAILROAD AND WAREHOUSE COMMISSIONERS

OF THE

STATE OF MISSOURI

FOR THE YEAR ENDING JUNE 30, 1904

THE HUGH STEPHENS PRINTING COMPANY.
JEFFERSON CITY, MO.

2573 1/2

1904

STATE OF MISSOURI,

Office of the Railroad and Warehouse Commissioners,

CITY OF JEFFERSON.

The attention of officers of companies owning or operating railroads in this State is especially called to SECTION 1070, Revised Statutes of Missouri, 1899, relating to annual statements by railroad companies, as follows:

SECTION 1070. The directors of every railroad company or corporation which is now or hereafter may be organized under the laws of this state shall hold a meeting on the second Tuesday in March of each year, for the transaction of such business as may properly come before them, at their office or place of business which shall have been established in this state—30 days' notice having been given by publication in two or more newspapers having the greatest circulation in the county or city in which the office of such railroad company or corporation shall be situated. The general manager or other chief officer of every such company or corporation, and the manager or other chief officer of every railroad company or corporation organized under the laws of another state, and owning, leasing, operating or controlling a railroad within this state, shall, on or before the first day of September of each year, transmit to the office of the railroad and warehouse commissioners of this state a statement in detail of the affairs of such company or corporation as the same existed on the 30th day of June first preceding, and of the business operation of such company or corporation for the year ending the 30th day of June as aforesaid. Said statement must be certified to under the oath of the proper officer of said company or corporation, and must be made out upon printed forms, furnished by the railroad and warehouse commissioners, which printed forms shall contain all interrogatories necessary to obtain a full statement, in detail of the organization, condition, business affairs and operations of such railroad company or corporation for the year ending the 30th day of June as aforesaid. The railroad and warehouse commissioners shall, on or before the 31st day of December of each year, transmit to the governor of this state a report of their official acts for the year ending on the 30th day of June as aforesaid; and the said report shall also contain a condensation of statistics, tabulated from the returns of the several railroad companies, together with all such information and recommendations concerning the regulation of the railroads of this state as the said commissioners may deem to be of public interest and importance.

The Commissioners expect a prompt compliance with the foregoing, and urge upon the proper officers of the several railroad companies the importance of filing their annual statements as nearly as possible in accordance with date required by law. Failure to file the statements promptly necessitates delay in the preparation and publishing of the annual reports of this Board. It is very important that the reports be ready for publication in December of each year.

2574 a

1. Name of common carrier making this report?
The Chicago, Burlington and Quincy Railroad Company.

2. Date of organization?
Charter Act passed February 14, 1855

3. Under the laws of what Government, State or Territory organized? If more than one, name all; give reference to each statute and all amendments thereof.
Illinois.

5 & 4. If a consolidated company, name the constituent companies. Give reference to charters of each and all amendments of same.
Aurora Branch R. R. Co. Charter Feb. 12-1849 Amended June 22, 1852. (Name changed to Chicago & Aurora R. R. Co.) amended Feb. 14, 1855. Changing name to Chicago Burlington & Quincy R. R. Co. Central Military Tract R. R. Charter Feb. 13, 1851. Amended June 19, 1852 and Feb. 11-1853. Consolidated with C. B. & Q. R. R. Co. July 2-1856
Peoria & Oquawka R. R. Co. Charter Feb. 12-1849. Amended Feb. 10-1851 June 22-1852. Feb. 8-1853. Feb. 21-1861. (Changing name to Logansport Peoria & Burlington R. R. Co.) Mortgage sale Oct. 20, 1862 March 8-1864. Name changed to Peoria & Burlington R. R. Co. Consolidated with C. B. & Q. June 24-1864.
Northern Cross R. R. Charter Apl. 14-1849. Amend. Feb. 1-1851. June 11-1852. June 21-1852. Feb. 10-1853. Feb. 19, 1857. (Name changed to Quincy & Chicago R. R. Co.) Mortgage sale Apl. 28-1864 and conveyed to C. B. & Q. R. R. Co. Janu. 30-1865.

5. ~~Date and authority for each consolidation.~~
Burlington & Missouri River R. R. Incorporated Janu. 15-1850, and the Burlington & Missouri River R. R. in Neb. incorporated May 12th 1869. Consolidated with C. B. & Q. R. R. Co. Jan. 1-1880.

6. If a reorganized company, give name of original corporation, and refer to laws under which it was organized.

Not Reorganized

7. [For companies not making operating reports.] What carrier operates the road of this company?

2574

1898

ORGANIZATION.

NAMES OF DIRECTORS.	POSTOFFICE ADDRESS.	DATE OF EXPIRATION OF TERM.
Chas. E. Perkins	Burlington, Ia.	Nov. 2 1904
Edw. T. Nichols	New York N. Y.	" " "
Geo. B. Harris	Chicago Ill.	" " "
Jas. J. Hill.	St. Paul Minn	" " "
Wm. P. Clough	New York N. Y.	" " "
Robt. Bacon	New York N. Y.	" " "
E. H. Harriman	New York N. Y.	" " "
Jacob H. Schiff	New York N. Y.	" " "
Geo. J. Gould	New York N. Y.	" " "
H. Mck. Twombly	New York N. Y.	" " "
Norman B. Ream	New York N. Y.	" " "

1324

2575

Total number of stockholders at date of last election, 442

Date of last meeting of stockholders for election of directors, Nov. 4 1903

Give postoffice address of general office, 209 Adams St. Chicago Ill.

Give postoffice address of operating office, 209 Adams St. Chicago, Ill.

OFFICERS.

President	Geo.B.Harris	Chicago,Ill.
First Vice President	D.Miller	Chicago,Ill.
Second Vice President	D.Willard	Chicago,Ill.
Secretary	T.S.Howland	Chicago,Ill.
Treasurer	T.S.Howland	Chicgo,Ill.
General Counsel	J.W.Blythe	Burlington,Ia.
General Solicitor	C.M.Dawes	Chicago,Ill.
" "	C.F.Manderson	Omaha, Neb.
" "	O.M.Spencer	St.Joseph, Mo
General Auditor	C.I.Sturgis	Chicago,Ill.
Auditor	W.P.Durkee	Omaha, Neb.
General Manager	J.M.Gruber	Chicago, Ill.
" "	G.W.Holdrege	Omaha, Neb.
Chief Engineer	T. EL Calvert	Chicago, Ill.
General Superintendent	H D.Judson	Chicago, Ill.
" "	G.T.Ross	Burlington, Ia.
" "	H.C.Nutt	St.Louis, Mo.
" "	H.E.Byram	Lincoln, Neb.
" "	J.R.Phelan	Alliance, Neb.
Supervisor of Telegraph	W.W.Ryder	Chicago, Ill.
Freight Traffic Manager	Geo.H Crosby	Chicago, Ill.
General Freight Agent	W.B.Hamblin	Chicago, Ill.
" " "	D.O.Ives	Omaha, Neb.
" " "	W.Gray	St.Louis, Mo.
Asst Gen. " "	E.R.Puffer	Chicago, Ill
" " " "	G P.Lyman	St.Paul, Minn.
" " " "	Geo Morton	Chicago, Ill.
" " " "	C.E.Spence	Chicago, Ill.
" " " "	A.B Smith	Omaha, Neb.
" " " "	F.Montmorency	Omaha, Neb.
" " " "	W C.Maxwell	St.Joseph, Mo.
" " " "	W.A.Hollsy	Chicago, Ill.
" " " "	W.W.Johnson	Omaha, Neb.
Passenger Traffic Manager	P S.Eustis	Chicago, Ill.
General passenger Agent	Jno.Francis	Chicago, Ill.
" " "	L.W.Wakeley	Omaha, Neb.
Asst.Gen. " "	W.A.Lalor	St.Louis, Mo.
" " " "	J.E.Buckingham	Omaha, Neb.
General Baggage Agent	John DeWitt	Chicago, Ill.
Land Commissioner	W.W.Baldwin	Burlington, Ia.

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1895

COST OF ROAD, EQUIPMENT AND PERMANENT IMPROVEMENTS.

ITEM.	EXPENDITURES DURING YEAR. Included in Operating Expenses.	Not Included in Operating Expenses. Charged to Income Account as Permanent Improvement.	Not Included in Operating Expenses. Charged to Construction of Equipment.	Total Cost to June 30, 190....	Cost per Mile.
CONSTRUCTION:					
Right of way,			36996999		
Other real estate,			9393485		
Fences,			4871701		
Grading and bridge and culvert masonry,			226902968		
Bridges and trestles,			499788759		
Track laying & surfacing			51415593		
Rails,			97865108		
Ties,			46510628		
Track Fastenings			142328[illegible]		
~~Other superstructure,~~ Frogs & Switches			365529[illegible]68		
Ballast			31002310		
Buildings, furniture and fixtures,			4[illegible]7480		
Shops, Roundhouses & Turntables			7839705		
Shop machinery and tools,			15620226		
Engineering expenses,			4953585		
Interest ~~during construction~~ and discount			122054034		
Crossings & Cattle Guards			2632454		
~~Discount on securities sold for construction.~~ Interlocking & Signal apparatus			3381081		
Telegraph line,			4418039		
Wharfing, etc.			42845		
Water Stations			9783936		
~~Sidings and yard extensions,~~ Fuel Stations			4049243		
Miscel Structures			4873198		
~~Terminal facilities and~~ elevators, Grain			1131873		
Storage Warehouses			19[illegible]58		
~~Road built by contract.~~ Electric Motor Power plants			101302		
Purchase of constructed road,			234192552		
Legal Expense			18185		
~~Other items,~~ General Expense			2799264		
Total construction,			1443611023		
EQUIPMENT:					
Locomotives,			115039499		
Passenger cars,			66381674		
Sleeping, parlor and dining cars,					
Baggage, express and postal cars,					
Combination cars,			500000		
Freight cars,			231624214		
Other cars of all classes,			9077953		
Floating equipment,					
Total equipment,			422623340		
Grand total cost construction, equipment, etc.,			18662343 63	321317010 48	3955333
Total cost construction, equipment, etc.—State of Missouri,					

Cannot give Detail as records were destroyed in Chicago fire 1871.

INCOME ACCOUNT.

FOR ROADS MAKING OPERATING REPORTS.

Gross earnings from operation,	63984377 49	
Less operating expenses,	41353874 51	
Income from operation,		22630502 98
Deficit,		
Dividends on stocks owned,	$ 71250	
Interest on bonds owned,	7216900	
Miscellaneous income—less expenses,	2809846	
Income from other sources,		20410096
Total income,		23426402 02
Deficit,		
DEDUCTIONS FROM INCOME:		
Interest on funded debt accrued,	68993926	
Interest on interest-bearing current liabilities accrued, not otherwise provided for,		
Rents,		
Taxes,	18621853	
Permanent improvements,		
Other deductions,	7217698	
Total deductions from income,		94832905 7
Net income,		12943111 45
Deficit,		
Dividends, 7 per cent, common stock,		7758731 00
Dividends, per cent, preferred stock,		
Other payments from net income,		
Total,		
Surplus from operations of year ending June 30, 1904,		5184374 45
Deficit from operations of year ending June 30, 190 ,		
Surplus on June 30, 1903 [from "General Balance Sheet," 1903, Report],		25415533 81
Deficit on June 30, 190 [from "General Balance Sheet," 190 , Report].		
Additions for year,		
Deductions for year,		
Surplus on June 30, 1904 [for entry on "General Balance Sheet," 1904, Report],		30599908 26
Deficit on June 30, 190 [for entry on "General Balance Sheet," 190, Report],		

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1927

ITEMS.	Total Receipts.	Deductions account of repayments, etc.	Actual Earnings.
PASSENGER:			
Passenger revenue,			
Less repayments,			
Tickets redeemed,			
Excess fares refunded,			
Other repayments,			
Total deductions,			
Total passenger revenue,			14213919 72
Mail,			2261663 30
Express,			1266477 41
Extra baggage and storage,			24691 10
Other items,			184730 77
Total passenger earnings,			18173705 30
FREIGHT:			
Freight revenue,			
Less repayments,			
Overcharges to shippers,			
Other payments,			
Total deductions,			
Total freight revenue,			43795582 98
Stock yards,			364628
Elevators,			
Other items,			
Total freight earnings,			43932045 76
Total passenger and freight earnings			62005751 06
OTHER EARNINGS FROM OPERATION:			
Car mileage, balance,			
Switch charges, ~~balance~~,			887970 18
Telegraph companies,			160932 63
Rents from tracks, yards and terminals,			582008 12
Rentals not otherwise provided for,			
Other sources,			347715 50
Total other earnings,			1978626 43
Total gross earnings from operation, whole line,			63984377 49

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ITEMS.	Total Receipts.	Deductions account of repayments, etc.	Actual Earnings.
PASSENGER:			
Passenger revenue,			
Less repayments,			
Tickets redeemed,			
Excess fares refunded,			
Other repayments,			
Total deductions,			
Total passenger revenue,			
Mail,			
Express,			
Extra baggage and storage,			
Other items,			
Total passenger earnings,			
FREIGHT:			
Freight revenue,			
Less repayments,			
Overcharges to shippers.			
Other repayments,			
Total deductions,			
Total freight revenue,			
Stock yards,			
Elevators,			
Other items,			
Total freight earnings.			
Total passenger and freight earnings.			
OTHER EARNINGS FROM OPERATION:			
Car mileage, balance,			
Switch charges, balance,			
Telegraph companies,			
Rents from tracks, yards and terminals,			
Rentals not otherwise provided for,			
Other sources,			
Total other earnings,			
Total gross earnings from operation, Missouri.			
Total gross earnings from operation, whole line.			

We have no record showing Missouri figures separate from those of other States.

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1899

ITEM.	Total.
MAINTENANCE OF WAY AND STRUCTURES:	
1. Repairs of Roadway,	4596298 6
2. Renewals of Rails,	682524 67
3. Renewals of Ties,	1374783 59
4. Repairs of Bridges and Culverts,	155174 578
5. Repairs of Fences, Road-Crossings, Signs and Cattle Guards,	17802418
6. Repairs of Buildings,	9235084
7. Repairs of Docks and Wharves,	577367
8. Repairs of Telegraph,	1844535 7
9. Other Expenses, Stationery & Printing	283597
Total,	9500280 13
MAINTENANCE OF EQUIPMENT:	
10. Repairs and renewals of Locomotives,	3332251 00
11. Repairs and renewals of Passenger Cars,	724627 65
12. Repairs and renewals of Freight Cars,	3665893 23
13. Repairs and renewals of ~~Ferry-Boats, Tugs, Floats and Barges;~~ Work Cars	113589 93
14. Shop Machinery, Tools, etc.,	356490 02
15. Other Expenses, Superintendence	73880 41
Stationery & Printing	242055 44
	16623 40
Total,	8525461 08
CONDUCTING TRANSPORTATION:	
16. Wages of Enginemen, Firemen and Round-House-Men,	3678632 74
17. Fuel of Locomotives,	4925928 45
18. Water Supplies for Locomotives,	235376 76
19. All other supplies for Locomotives,	207645 55
20. Wages of other Trainmen,	2462071 48
21. All other Train Supplies,	64597509
22. Wages of Switchmen, Flagmen and Watchmen,	1501313 86
23. Expense of telegraph, including Train Dispatchers and Operators,	722064 32
24. Wages of Station Agents, Clerks and Laborers,	2433338 20
25. Station Supplies,	268789 30
26. Switching Charges—Balance,	555922 43
27. Car Mileage—Balance,	37112791
28. Loss and Damage,	467564 24
29. Injuries to persons, Use of Equipment Balance	330474 56
30. ~~Baggage, Floats, Tugs, Ferry Boats, expenses of, including Wages, Fuel and supplies;~~	59140 35
31. ~~Other Expenses;~~ Superintendence	924674 29
Other Expenses	14838 37
Clearing Wrecks.	84322 76
Advertising	15949 56
Outside Agencies	58127 28
Rent of Tracks, Yards & Terminals.	1024386 98
Stationery & Printing	2738772 68
Total,	21738772 68

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ITEM.	Total.
GENERAL EXPENSES:	
32. Salary of Officers,	3760148 3
33. Salaries of Clerks,	565481 56
34. General Office Expenses and Supplies,	76593 27
35. Agencies, including Salaries and Rent,	
36. Advertising,	
37. Commissions,	
38. Insurance,	19712 824
39. Expense of Fast Freight Lines,	
40. Expense of Traffic Association,	
41. Expenses of Stock Yards and Elevators,	
42. Rents for Tracks, Yards and Terminals,	
43. Rents not otherwise provided for,	
44. Legal Expenses,	198655 08
45. Stationery and Printing. (General Office)	79759 33
46. Other General Expenses,	100730 31
Total,	1589360 62
RECAPITULATION OF EXPENSES:	
47. Maintenance of Way and Structure,	9500280 13
48. Maintenance of Equipment,	8525461 08
49. Conducting Transportation,	21738772 68
50. General Expenses,	1589360 62
Grand Total,	41353874 51
Percentage of Expenses to Earnings—Entire Line,	6463
OPERATING EXPENSES—STATE OF MISSOURI:	
Maintenance of Way and Structure,	
Maintenances of Equipment,	
Conducting Transportation,	
General Expenses,	
Total,	
Percentage of Expenses to Earnings—Missouri,	
Taxes paid in Missouri,	1878761 8
State,	
County, Municipal and School,	

We have no records showing Missouri figures separate from the rest of the Roads.

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COMPARATIVE GENERAL BALANCE SHEET.

JUNE 30, 190.... Item.	JUNE 30, 190.... Total.	ASSETS.	JUNE 30, 190.... Item.	JUNE 30, 190.... Total.	YEAR ENDING JUNE 30, 190.... Increase.	YEAR ENDING JUNE 30, 190.... Decrease.
		Cost of road,				
	302654666 85	Cost of equipment,		321317010 48	18662343 63	
	501649980	Stocks of other companies owned,		37021578		4646284 02
	123513350	Bonds of other companies owned		133875050	10361700	
	128588350 8	Other permanent investments,		124501065 3		40872855
	41363549	Lands owned,		68947060	27583511	
	1056891920	Cash and current assets,		1120196994	63305074	
		OTHER ASSETS:				
	488296481	Materials and supplies,		581698862	93402381	
	1349232296	Sinking fund,		1437373730	88341434	
		Sundries,				
		Profits and Loss,				
	351122977 69	Grand total,		367560249 75	16437272 06	

COMPARATIVE GENERAL BALANCE SHEET.

JUNE 30, 190.... Item.	JUNE 30, 190.... Total.	LIABILITIES.	JUNE 30, 190.... Item.	JUNE 30, 190.... Total.	YEAR ENDING JUNE 30, 190.... Increase.	YEAR ENDING JUNE 30, 190.... Decrease.
	110839100 00	Capital Stock,		110839100 00		
	156050900 00	Funded Debt,		171015100 00	1496420000	
	11696909 74	Current Liabilities,		806444021		3632469 53
	679066	Accrued Interest on Funded Debt not yet payable,			679066	
	10000000 00	Renewal Fund		10000000 00		
	227134091	Current accts Bal		64992226		1621418 65
	21697725 46	Sinking Funds		2310639938	140867392	
	13151467 77	Profit & Loss		1329448730	14301953	
	25422324 47	Income acct.		3059080060	516847613	
		~~[illegible]~~				
	351122977 69	Grand total.		367560249 75	1643727206	

ITEM.	Column for Tonnage, No. Passengers, No. Trains, Mileage, No. Cars.	Columns for Revenue and Rates. Dollars.	Cts.	M.
PASSENGER TRAFFIC:				
Number of passengers carried earning revenue,				
Number of passengers carried one mile,				
Average distance carried,				
Total passenger revenue,				
Average amount received from each passenger,				
Average receipts per passenger per mile,				
Estimated cost of carrying each passenger one mile,				
Total passenger earnings,				
Passenger earnings per mile of road,				
Passenger earnings per train mile.				
FREIGHT TRAFFIC:				
Number of tons carried of freight earning revenue,				
Number of tons carried one mile,				
Average distance hauled of one ton,				
Total freight revenue,				
Average amount received for each ton of freight,				
Average receipts per ton per mile,				
Estimated cost of carrying one ton one mile,				
Total freight earnings,				
Freight earnings per mile of road,				
Freight earnings per train mile,				
PASSENGER AND FREIGHT:				
Passenger and freight revenue,				
Passenger and freight revenue per mile of road,				
Passenger and freight earnings,				
Passenger and freight earnings per mile of road,				
Gross earnings from operation,				
Gross earnings from operation per mile of road,				
Expenses,				
Expenses per mile of road,				
TRAIN MILEAGE:				
Miles run by passenger trains,				
Miles run by freight trains,				
Miles run by mixed trains,				
Total mileage trains earning revenue,				
Miles run by switching trains,				
Miles run by construction and other trains,				
Grand total train mileage,				
Mileage of loaded freight cars—North or East,				
Mileage of loaded freight cars—South or West,				
Mileage of empty freight cars—North or East,				
Mileage of empty freight cars—South or West,				
Average number of freight cars in train,				
Average number of loaded cars in train,				
Average number of empty cars in train,				
Average number of tons of freight in train,				
Average number of tons of freight in each loaded car,				

We have no records showing Missouri figures separate from other States

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ITEM.	Column for Tonnage, No. Passengers, No. Trains, Mileage, No. Cars.	Columns for Revenue and Rates. Dollars.	Cts.	M.
PASSENGER TRAFFIC:				
Number of passengers carried earning revenue,	13570324			
Number of passengers carried one mile,	671,148,216			
Average distance carried,	4946			
Total passenger revenue,		14213919	72	
Average amount received from each passenger,			1047	43
Average receipts per passenger per mile,			02	118
Estimated cost of carrying each passenger one mile				
Total passenger earnings,		1817370	530	
Passenger earnings per mile of road,		2183	67	
Passenger earnings per train mile,			1255	79
FREIGHT TRAFFIC:				
Number of tons carried of freight earning revenue,	19779935			
Number of tons carried one mile,	5101521951			
Average distance hauled of one ton,	25792			
Total freight revenue,		43795582	98	
Average amount received for each ton of freight,			2214	14
Average receipts per ton per mile,			0085	8
Estimated cost of carrying one ton one mile,				
Total freight earnings,		43841062	86	
Freight earnings per mile of road,		52666	5	
Freight earnings per train mile,			2441	45
PASSENGER AND FREIGHT:				
Passenger and freight revenue,		58009502	70	
Passenger and freight revenue per mile of road,		69701	5	
Passenger and freight earnings,		62014768	16	
Passenger and freight earnings per mile of road,		74514	1	
Gross earnings from operation,		63984327	49	
Gross earnings from operation per mile of road,		76886	7	
Expenses,		41353745	6	
Expenses per mile of road,		49688	4	
TRAIN MILEAGE:				
Miles run by passenger trains,	13166035			
Miles run by freight trains,	16647377			
Miles run by mixed trains,	1305822			
Total mileage trains earning revenue,	31119284			
Miles run by switching trains,				
Miles run by construction and other trains,				
Grand total train mileage,				
Mileage of loaded freight cars—North or East,	329348909			
Mileage of loaded freight cars—South or West,				
Mileage of empty freight cars—North or East,	131554869			
Mileage of empty freight cars—South or West,				
Average number of freight cars in train,	25.67			
Average number of loaded cars in train,	18.34			
Average number of empty cars in train,	7			
Average number of tons of freight in train,	2841.4			
Average number of tons of freight in each loaded car,	154.9			

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1935

		Jauney	Williams	Columbia	St. Louis	Chicago	Heim	Munton	Tower	Gould	Standard	Trojan	Buckeye	Melrose	Leader	Washburn	Rio Grande	National	Bowling	Pooley	Solid	SHYM	American	Drexele	Latrobe	Miller
Locomotives Pass		52	1			47		107	5	1				41												
Frt		116	35	1	16	183		157	26	198			4	8	6	2	1									
Switch		8			13	104		69	15					32	3											
Total	1253	176	40	1	29	334		333	46	199			4	81	9	2	1									
Cars in Pass., Service.																										
1st Class & 2nd Class		420				157													1							
Combination		125				56																				
Dining Cars		9				9																				
Parlor Cars		2			1	5																				
Bagg-Esp-Mail		185				42																				
Other Cars		4																								
Total	1091	820			1	269													1							
Cars in Frt., Ser.																										
Box		3629	3514	196	1099	7346	1109	28	418	37	2	1	216						1	1						
Flat		547	101		139	1414		15	1			360	4								35	4				
Stock		2047	920	45	222	1231	318	828	1549	29			46							1						
Coal		2208	245	20	222	3306	40		5675	9	3		158			1						2	1	2	1	
Ref'gr.,		426	3			191																				
Others		77	7			9																				
Total	44,101	5608	4790	261	1682	13465	1467	871	6643	75	5	361	484			1			1	2	25	6	1	2	1	
Company Ser'v. Cars																		1								5
Officers		14	1			200			298																	
Gravel						14						2														
Derrick		6	1																							
Caboose		253	13		8	280			19			1														
Others		167	57	5	39	499		5	114	1		1	1	2												8
Totals	2015	440	72	5	47	993		5	431	1		4	1	2				1								13

LINE IN USE.	Line Represented by Capital Stock.		Line of proprietary companies.	Line operated under lease.	Line operated under contract, etc.	Line operated under trackage rights.	Total mileage operated.	New line constructed during year.	Rails.	
	Main line.	Branches and spurs.							Iron.	Steel.
Miles of single track, main line.	824.43	72.9921				2.0252	832616	13.16	71.01	805263
Miles of second track, main line.	432.99	63.48					496.47	14.98		496.47
Miles of third track, main line.	25.55						23.55			23.55
Miles of fourth track, main line.										
Miles of yard track and sidings.	643.87	145.152					2095.39	168.19	319.19	1777.20
Total mileage operated (all tracks).	1924.84	881421				2.0252	10941.57	196.73	389.20	10349.85

B. MILEAGE OF LINE BY STATES AND TERRITORIES.

I. Mileage Operated by Road Making This Report.

STATE OR TERRITORY.	Line Represented by Capital Stock.		Line of proprietary companies.	Line operated under Lease.	Line operated under contract, etc.	New line constructed during year.	Total mileage excluding trackage rights.	Line operated under trackage rights.	Rails.	
	Main Line.	Branches and spurs.							Iron.	Steel.
Missouri.		1022.62					1022.62	9.27		1022.62
Other States	824.43	627.659				13.16	7303.54	193.25	71.01	7030.01
Total mileage operated (single track).	824.43	7299.21				13.16	8326.16	202.52	71.01	8052.63

II. Mileage Owned by Road Making This Report.

Missouri.		1022.62					1022.62	9.27		1022.62
Other States.	824.43	627.659				13.16	7303.54	193.25	71.01	7030.01
Total mileage owned (single track).	824.43	7299.21				13.16	8326.16	202.52	71.01	8052.63

MILEAGE OWNED AND OPERATED UNDER LEASE IN MISSOURI.

Miles of single track in Missouri owned.	1022.62	Miles of single track in Missouri operated under lease.	
Miles of second track in Missouri.	52.80	Miles of second track in Missouri operated under lease.	
Miles of third track in Missouri.		Miles of yard track in Missouri operated under lease.	
Miles of yard track in Missouri.		Miles of sidings track in Missouri operated under lease.	
Miles of sidings in Missouri.	335.58		
Total—all tracks in Missouri owned.	1410.00		

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ALL LINES NOT REPORTED BY OTHER COMPANIES.

NAME.	TERMINALS. From	TERMINALS. To	Miles of line for each road named.
Des Moines & Kansas City Ry	Des Moines Ia	Canisville Mo	11 88
Leon Mt. Aye & So. Western "	Leon Ia	Grant City "	
Do	Bethany Jct "	Albany "	115 08
St Joseph & Des Moines "	Albany Mo	St Joseph "	
Grant City & Southern "	Grant City "	Albany Jct "	
Burl & Mo Rivers R.R.	Creston Ia	Hopkins Mo	52 30
K.C. St J. & C.B. "	Hopkins Mo	Amazonia "	
Hannibal & St Joseph R.R.	Hannibal "	St Joseph "	206 52
Do	At St Joseph "		2 57
Quincy & Palmyra "	West Quincy "	Palmyra Jct "	12 70
Kansas City & Cameron "	Cameron Jct "	Kansas City "	53 83
Quincy Bridge "	West Quincy "	Mo Ill State Line	13
St L. K. & N. W. "	Keokuk Ia	St Louis Mo	174 78
Kansas City St Jos & C. Bluffs	Kansas City Mo	Council Bluffs Ia	139 69
Do	Ky Leavenworth "	Stillings Mo	1 05
Do	Armour "	Winthrop "	3 51
Brownville & Nodaway Valley "	Villisca Ia	Burlington Jct "	41 28
Nodaway Valley R.R.	Burlington Jct Mo	Bigelow "	
Tarkio Valley "	Northboro, Ia	Corning "	25 44
Chicago Burlington & Kansas City	Moulton "	Carrollton "	103 29
Keokuk & Western R.R.	Van Wert "	Alexandria "	69 62
St Joseph & Nebraska "	Napier Mo	Boswell "	5 86
Atchison & Nebraska "	Ruth Bridge Line		3 09
			2 62
		Total mileage,	1022 62

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Ex 30.

ANNUAL STATEMENT

OF THE

Chicago Burlington and Quincy Railroad Company

TO THE

RAILROAD AND WAREHOUSE COMMISSIONERS

OF THE

STATE OF MISSOURI

FOR THE YEAR ENDING JUNE 30, 1905

THE HUGH STEPHENS PRINTING COMPANY
JEFFERSON CITY, MO.

2589 c

1838

STATE OF MISSOURI,

Office of the Railroad and Warehouse Commissioners,

CITY OF JEFFERSON.

The attention of officers of companies owning or operating railroads in this State is especially called to SECTION 1070, Revised Statutes of Missouri, 1899, relating to annual statements by railroad companies, as follows:

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SECTION 1070. The directors of every railroad company or corporation which is now or hereafter may be organized under the laws of this state shall hold a meeting on the second Tuesday in March of each year, for the transaction of such business as may properly come before them, at their office or place of business which shall have been established in this state—30 days' notice having been given by publication in two or more newspapers having the greatest circulation in the county or city in which the office of such railroad company or corporation shall be situated. The general manager or other chief officer of every such company or corporation, and the manager or other chief officer of every railroad company or corporation organized under the laws of another state, and owning, leasing, operating or controlling a railroad within this state, shall, on or before the first day of September of each year, transmit to the office of the railroad and warehouse commissioners of this state a statement in detail of the affairs of such company or corporation as the same existed on the 30th day of June first preceding, and of the business operation of such company or corporation for the year ending the 30th day of June as aforesaid. Said statement must be certified to under the oath of the proper officer of said company or corporation, and must be made out upon printed forms, furnished by the railroad and warehouse commissioners, which printed forms shall contain all interrogatories necessary to obtain a full statement, in detail of the organization, condition, business affairs and operations of such railroad company or corporation for the year ending the 30th day of June as aforesaid. The railroad and warehouse commissioners shall, on or before the 31st day of December of each year, transmit to the governor of this state a report of their official acts for the year ending on the 30th day of June as aforesaid; and the said report shall also contain a condensation of statistics, tabulated from the returns of the several railroad companies, together with all such information and recommendations concerning the regulation of the railroads of this state as the said commissioners may deem to be of public interest and importance.

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The Commissioners expect a prompt compliance with the foregoing, and urge upon the proper officers of the several railroad companies the importance of filing their annual statements as nearly as possible in accordance with date required by law. Failure to file the statements promptly necessitates delay in the preparation and publishing of the annual reports of this Board. It is very important that the reports be ready for publication in December of each year.

1. Name of common carrier making this report?

The Chicago Burlington and Quincy Railroad Company

2. Date of organization?

Charter act passed February 14- 1855.

3. Under the laws of what Government, State or Territory organized? If more than one, name all; give reference to each statute and all amendments thereof.

5 & 4. If a consolidated company, name the constituent companies. Give reference to charters of each and all amendments of same.

Aurora Branch R.R.Co. Charter Feb. 12-1849. Amended June 22-1852 (Name changed to Chicago & Aurora R.R.Co.) amended Feb. 14-1855 Changing Name to Chicago Burlington & Quincy R.R.Co. Central Military Tract R.R. Charter Feb. 15-1851 Amended June 14 1852 and Feb. 11-1853. Consolidated with C.B.& Q. R.R.Co. July 9-1856

Peoria & Oquawka R.R.Co. Charter Feby 12" 1849 amended Feb 10" 1851 June 22" 1852. Feb. 8" 1853 Feb. 21" 1861 (Changing name to Logansport Peoria & Burlington R.R.Co.) Masters Sale Oct. 20" 1862 March 8" 1864 Name changed to Peoria & Burlington R.R.Co. Consolidated with the C.B.& Q.R.R.Co. June 24" 1864. Northern Cross Charter R.R. Feb. 13" 1849. amended Feb 1" 1851. June 11" 1852. June 21" 1852. Feb 12" 1853 Feby 10" 1857. (Name changed to Quincy & Chicago R.R.Co.) Masters sale April 28" 1864 & conveyed to C.B.& Q.R.R.Co. July 26" 1865

~~5. Date and authority for each consolidation.~~ Burlington & Missouri River R.R. incorporated Jan. 15" 1850 & the Burlington & Missouri River R.R. in Neb. incorporated May 12" 1869 Consolidated with C.B.& Q. R.R. Co. Janu. 1" 1870.

6. If a reorganized company, give name of original corporation, and refer to laws under which it was organized.

Not Reorganized

7. [For companies not making operating reports.] What carrier operates the road of this company?

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ORGANIZATION.

NAMES OF DIRECTORS.	POSTOFFICE ADDRESS.	DATE OF EXPIRATION OF TERM.
Robert Bacon	New York City.	Nov. 1st 1905.
Geo. F. Baker.	New York City.	" " "
Geo. P. Claike.	New York City	" " "
Wm. P. Clough.	New York City	" " "
Geo. B. Harris.	Chicago. Ill.	" "
James J. Hill.	St. Paul. Minn.	" " "
James N. Hill.	St. Paul. Minn.	" " "
Jno. J. Mitchell	Chicago, Ill.	" " "
Charles E. Perkins	Burlington, Ia.	" " "
Norman B. Ream	New York City.	" " "
Samuel Thorne.	New York City.	" " "

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Total number of stockholders at date of last election. 430

Date of last meeting of stockholders for election of directors. Nov. 2 1904

Give postoffice address of general office. 209 Adams St. Chicago. Ill.

Give postoffice address of operating office. 209 Adams St. Chicago Ill.

President	Geo.B.Harris	Chicago, Ill.
First Vice President	D.Miller	Chicago, Ill.
Second Vice President	D.Willard	Chicago, Ill.
Secretary	T.S.Howland	Chicago, Ill.
Treasurer	T.S.Howland	Chicago, Ill.
General Counsel	J.W.Blythe	Burlington, Ia.
General Solicitor	C.M.Dawes	Chicago, Ill.
" "	C.F.Manderson	Omaha, Neb.
" "	O.M.Spencer	St.Joseph, Mo.
General Auditor	C.I.Sturgis	Chicago, Ill.
Auditor	W.P.Durkee	Omaha, Neb.
"	B.L.Crosby	St.Joseph, Mo
General Manager	F.A.Delane	Chicago, Ill.
" "	C.W.Holdrege	Omaha, Neb.
Chief Engineer	W.L.Brackenridge	Chicago, Ill.
" "	I.S.P.Weeks	Lincoln, Neb.
" "	L.F.Goodale,	St.Louis, Mo.
General Superintendent	F.C.Rice	Chicago, Ill.
" "	T.E.Calvert	Lincoln, Neb.
" "	Henry Miller	St.Louis, Mo.
Supervisor of Tel.,	W.W.Ryder	Chicago, Ill.
Frt.,Traffic Mgr.,	Thos.Miller	Chicago, Ill.
Asst.,Frt.T.Mgr.,	Geo.H.Crosby	Chicago, Ill.
General Freight Agt.,	D.O.Ives	Omaha, Neb.
" " "	W.Gray	St.Louis, Mo.
Asst.Gen. " "	W.B.Hamblin	Chicago, Ill.
" " " "	E.R.Puffer	Chicago, Ill.
" " " "	Geo.Morton	Chicago, Ill.
" " " "	C.E.Spens	Chicago, Ill.
" " " "	A.B.Smith	Omaha, Neb.
" " " "	F.Montmorency	Omaha, Neb.
" " " "	W C.Maxwell	St.Louis, Mo.
Passenger Traffic Mgr.	P.S.Eustis	Chicago, Ill.
General Pass.Agent	Jno. Francis	Chicago, Ill.
" " "	L.W Wakely	Omaha, Neb.
Asst.Gen. " "	W.A.Lalor	St.Louis, Mo.
" " " "	J.E.Buckingham	Omaha, Neb.
Gen'l Baggage "	F.H.Ellis	Chicago, Ill.
" " "	T.Marsland	Lincoln, Neb.
Land Commissioner	W.W.Baldwin	Burlington, Ia

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COST OF ROAD, EQUIPMENT AND PERMANENT IMPROVEMENTS.

ITEM.	EXPENDITURES DURING YEAR. Included in Operating Expenses.	Not Included in Operating Expenses. Charged to Income Account as Permanent Improvement.	Not Included in Operating Expenses. Charged to Construction of Equipment.	Total Cost to June 30, 190....	Cost per Mile.
CONSTRUCTION:					
Right of way, Station Grounds.			450325 73		
Other real estate,			95 639		
Fencing right of way.			27673 69		
Grading and bridge and culvert masonry,			967994 16		
Track fastenings			56018 64		
Bridges ~~and~~ trestles, Culverts.			699231 76		
Frogs & Switches.			36866 11		
Rails,			457318 39		
Ties,			214441 18		
Ballast track laying & surfacing.			358837 88		
~~Other superstructure,~~			388063 60		
Station Buildings, ~~furniture~~ and fixtures,			73918 18		
Shop machinery and tools,			22080 13		
Storage warehouses			2256 20		
Engineering ~~expenses~~,			83955 59		
Docks & Wharves			2152 80		
~~Interest during construction,~~			43574 76		
Interlocking signal apparatus Water Stations.			86280 74		
~~Discount on securities sold for construction.~~			32637 93		
Telegraph line,			2111 12		
Electric Light Plants			75408 97		
~~Wharfing, etc.~~			60453 29		
Shops Round Houses Turntables.			29739 93		
~~Sidings and yard extensions.~~			66036 46		
Miscellaneous structures			1 960889 36		
~~Terminal facilities and operators,~~			709 41		
Crossings Cattle Guards & signs			3078 00		
~~Road built by contract,~~ Train Elevators			32363 72		
Purchase of constructed road,			6 233493 94		
Signal expenses					
~~Other items,~~ Interest & Discount.					
Total construction,					
EQUIPMENT:					
Locomotives,			2499985		
Passenger cars,			588901		
Sleeping, parlor and dining cars,			799134		
Baggage, express and postal cars,			250032		
Combination cars,			62097 61		
Freight cars,			107515 86		
Other cars of all classes,			179025 16		
Floating equipment,					
~~Total equipment,~~			390019 15		
Grand total cost construction, equipment, etc.,			6 623513 09		
Total cost construction, equipment, etc.— State of Missouri,					

Cannot give details as records were destroyed in Chicago fire of 1871

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INCOME ACCOUNT.

FOR ROADS MAKING OPERATING REPORTS.

Gross earnings from operation,	65162858 02	
Less operating expenses,	41479169 43	
Income from operation,		23683688 59
Deficit,		
Dividends on stocks owned,	920000	
Interest on bonds owned,	877005	
Miscellaneous income—less expenses,	205305 95	
Income from other sources,		3022060 0
Total income,		26985894 59
Deficit,		
DEDUCTIONS FROM INCOME:		
Interest on funded debt accrued,	7376229 08	
Interest on interest-bearing current liabilities accrued, not otherwise provided for,		
Rents,		
Taxes,	1840627 35	
Permanent improvements,		
Other deductions,	939133 50	
Total deductions from income,		10155989 93
Net income,		16829904 66
Deficit,		
Dividends, 7 per cent, common stock,		7758737 00
Dividends, per cent, preferred stock,		
Other payments from net income,		
Total,		6671167 66
Surplus from operations of year ending June 30, 1905,		
Deficit from operations of year ending June 30, 190 ,		
Surplus on June 30, 1904 [from "General Balance Sheet," 1904 Report],		30590800 60
Deficit on June 30, 190 [from "General Balance Sheet," 190 , Report].		
Additions for year,		
Deductions for year,		
Surplus on June 30, 1905 [for entry on "General Balance Sheet," 1905, Report],		36661968 26
Deficit on June 30, 190 [for entry on "General Balance Sheet," 190, Report],		

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ITEMS.	Total Receipts.	Deductions account of repayments, etc.	Actual Earnings.
PASSENGER:			
Passenger revenue,			
Less repayments,			
Tickets redeemed,			
Excess fares refunded,			
Other repayments,			
Total deductions,			
Total passenger revenue,			15 688 764 42
Mail,			2 290 431 48
Express,			1 285 205 83
Extra baggage and storage,			240 360 89
Other items,			220 515 72
Total passenger earnings,			19 725 280 34
FREIGHT:			
Freight revenue,			
Less repayments,			
Overcharges to shippers,			
Other payments,			
Total deductions,			
Total freight revenue,			43 346 403 78
Stock yards,			70 535 05
Elevators,			
Other items,			
Total freight earnings,			43 416 938 83
Total passenger and freight earnings,			63 142 219 17
OTHER EARNINGS FROM OPERATION:			
Car mileage, balance,			
Switch charges, balance,			891 599 88
Telegraph ~~companies~~, Earnings			165 987 41
Rents from tracks, yards and terminals,			
Rentals not otherwise provided for.			584 022 81
Other sources,			379 028 75
Total other earnings,			2 020 638 85
Total gross earnings from operation, whole line,			65 162 858 02

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ITEMS.	Total Receipts.	Deductions account of repayments, etc.	Actual Earnings.
PASSENGER:			
Passenger revenue,			
Less repayments,			
Tickets redeemed,			
Excess fares refunded,			
Other repayments,			
Total deductions,			
Total passenger revenue,			
Mail,			
Express,			
Extra baggage and storage,			
Other items,			
Total passenger earnings,			
FREIGHT:			
Freight revenue,			
Less repayments,			
Overcharges to shippers.			
Other repayments,			
Total deductions,			
Total freight revenue,			
Stock yards,			
Elevators,			
Other items,			
Total freight earnings,			
Total passenger and freight earnings.			
OTHER EARNINGS FROM OPERATION:			
Car mileage, balance,			
Switch charges, balance,			
Telegraph companies,			
Rents from tracks, yards and terminals,			
Rentals not otherwise provided for,			
Other sources,			
Total other earnings,			
Total gross earnings from operation, Missouri.			
Total gross earnings from operation, whole line.			

We have no record showing Missouri figures separate from those of other States

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ITEM.	Total.
MAINTENANCE OF WAY AND STRUCTURES:	
1. Repairs of Roadway,	4100323 05
2. Renewals of Rails,	443341 74
3. Renewals of Ties,	1436989 33
4. Repairs of Bridges and Culverts,	1492547 66
5. Repairs of Fences, Road-Crossings, Signs and Cattle Guards,	147821 72
6. Repairs of Buildings,	675183 97
7. Repairs of Docks and Wharves,	11180 73
8. Repairs of Telegraph,	141198 22
9. Other Expenses,	
Total,	8448586 42
MAINTENANCE OF EQUIPMENT:	
10. Repairs and renewals of Locomotives,	3316126 71
11. Repairs and renewals of Passenger Cars,	689640 70
12. Repairs and renewals of Freight Cars,	5268625 70
13. Repairs and renewals of Ferry-Boats, Tugs, Floats and Barges,	84408 54
14. Shop Machinery, Tools, etc.,	386760 30
15. Other Expenses,	79792
Superintendence.	245753 66
Total,	10071107 61
CONDUCTING TRANSPORTATION:	
16. Wages of Enginemen, Firemen and Round-House-Men,	3522121 51
17. Fuel of Locomotives,	4494962 80
18. Water Supplies for Locomotives,	237725 40
19. All other supplies for Locomotives,	151432 41
20. Wages of other Trainmen,	2289667 56
21. All other Train Supplies,	59287 93
22. Wages of Switchmen, Flagmen and Watchmen,	1458782 96
23. Expense of telegraph, including Train Dispatchers and Operators,	77725 02
24. Wages of Station Agents, Clerks and Laborers,	2393747 52
25. Station Supplies,	284674 91
26. Switching Charges—Balance,	529433 31
27. Car Mileage—Balance,	381492 88
28. Loss and Damage,	520128 49
29. Injuries to persons, Other supplies for Locomotives.	282177 60
30. ~~Barges, Floats, Tugs, Ferry-Boats, expenses of, including Wages, Fuel and Supplies.~~	76720 22
31. Other Expenses,	9139 71
Use of Equipment Balance	1088 87
Superintendence	1073357 74
Clearing Wrecks.	80643 08
Total,	

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ITEM.	Total.
GENERAL EXPENSES:	
32. Salary of Officers,	3372599 82
33. Salaries of Clerks,	620449 15
34. General Office Expenses and Supplies,	844087 5
35. ~~Agencies, including Salaries and Rent,~~ Outside Agencies.	576783 60
36. Advertising,	179133 16
37. Commissions,	
38. Insurance,	233665 15
39. Expense of Fast Freight Lines,	
40. Expense of Traffic Association,	
41. Expenses of Stock Yards and Elevators,	
42. Rents for Tracks, Yards and Terminals,	
43. Rents not otherwise provided for,	1082915 78
44. Legal Expenses,	247090 92
45. Stationery and Printing,	303728 53
46. Other General Expenses,	112736 96
Total,	3813511 82
RECAPITULATION OF EXPENSES:	
47. Maintenance of Way and Structure,	8144858 62
48. Maintenance of Equipment,	10071107 61
49. Conducting Transportation,	19145963 58
50. General Expenses,	3813511 82
Grand Total,	41479169 43
Percentage of Expenses to Earnings—Entire Line,	63 65
OPERATING EXPENSES—STATE OF MISSOURI:	
Maintenance of Way and Structure,	
Maintenances of Equipment,	
Conducting Transportation,	
General Expenses,	
Total,	
Percentage of Expenses to Earnings—Missouri,	
Taxes paid in Missouri,	190031 86
State,	
County, Municipal and School,	

We have no records showing Missouri figures the separate from other States.

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COMPARATIVE GENERAL BALANCE SHEET.

JUNE 30, 190.... Item.	JUNE 30, 190.... Total.	ASSETS.	JUNE 30, 190.... Item.	JUNE 30, 190.... Total.	YEAR ENDING JUNE 30, 190.... Increase.	YEAR ENDING JUNE 30, 190.... Decrease.
	321317010 48	Cost of road, Cost of equipment,		327940523 57	6623513 09	
	3702157 8	Stocks of other companies owned,		3702157 8		62685
	1338750 50	Bonds of other companies owned,		1276465 50		9723740
	1245010 659	Other permanent investments,		1147773 519		
	68947060	Lands owned,		113194152	44247092	
	112019694	Cash and current assets,		130261352 6	1824165 32	
		OTHER ASSETS:				
	5816988 62	Materials and supplies,		4810454 64		10065398
	1437573780	Sinking fund,		1530463636	92889906	
		Sundries,				
		Profits and Loss,				
	3675602497 5	Grand total.		3753381077 6	777785801	

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COMPARATIVE GENERAL BALANCE SHEET.

JUNE 30, 190.... Item.	JUNE 30, 190.... Total.	LIABILITIES.	JUNE 30, 190.... Item.	JUNE 30, 190.... Total.	YEAR ENDING JUNE 30, 190.... Increase.	YEAR ENDING JUNE 30, 190.... Decrease.
	110 839 100 —	Capital Stock,		110 839 100 —		
	71 015 100	Funded Debt,		170 512 100 —		503 000 —
	8 064 446 21	Current Liabilities,		72 142 968 2		850 143 39
	9 107 66	Accrued Interest on Funded Debt not yet payable,		54 774 91	45 667 25	
	10 000 000 —	General Fund		10 000 000 —		
	64 922 26	Currents acct Bal		2 197 375 23	154 745 297	
	23 106 399 38	Sinking Fund		24 559 979 36	14 535 798	
	132 944 873 0	Profit + Loss		134 080 63	11 352 570	
	30 599 908 26	Income account ~~Profits and Loss~~		36 661 968 26	6 062 060	
	367 560 249 75	Grand total.		375 338 107 76	7 777 858 01	

ITEM.	Column for Tonnage, No. Passengers, No. Trains, Mileage, No. Cars.	Columns for Revenue and Rates. Dollars.	Cts.	M.
PASSENGER TRAFFIC:				
Number of passengers carried earning revenue,				
Number of passengers carried one mile,				
Average distance carried,				
Total passenger revenue,				
Average amount received from each passenger,				
Average receipts per passenger per mile,				
Estimated cost of carrying each passenger one mile,				
Total passenger earnings,				
Passenger earnings per mile of road,				
Passenger earnings per train mile,				
FREIGHT TRAFFIC:				
Number of tons carried of freight earning revenue,				
Number of tons carried one mile,				
Average distance hauled of one ton,				
Total freight revenue,				
Average amount received for each ton of freight,				
Average receipts per ton per mile,				
Estimated cost of carrying one ton one mile,				
Total freight earnings,				
Freight earnings per mile of road,				
Freight earnings per train mile,				
PASSENGER AND FREIGHT:				
Passenger and freight revenue,				
Passenger and freight revenue per mile of road.				
Passenger and freight earnings,				
Passenger and freight earnings per mile of road,				
Gross earnings from operation,				
Gross earnings from operation per mile of road,				
Expenses,				
Expenses per mile of road,				
TRAIN MILEAGE:				
Miles run by passenger trains,				
Miles run by freight trains,				
Miles run by mixed trains,				
Total mileage trains earning revenue,				
Miles run by switching trains,				
Miles run by construction and other trains,				
Grand total train mileage,				
Mileage of loaded freight cars—North or East,				
Mileage of loaded freight cars—South or West,				
Mileage of empty freight cars—North or East,				
Mileage of empty freight cars—South or West,				
Average number of freight cars in train,				
Average number of loaded cars in train,				
Average number of empty cars in train,				
Average number of tons of freight in train,				
Average number of tons of freight in each loaded car,				

We have no record showing Missouri separate from other States

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ITEM.	Column for Tonnage, No. Passengers, No. Trains, Mileage, No. Cars.	Columns for Revenue and Rates. Dollars.	Cts.	M.
PASSENGER TRAFFIC:				
Number of passengers carried earning revenue,	1457481 —			
Number of passengers carried one mile,	80285612			
Average distance carried,	55.05			
Total passenger revenue,		1568766	42	
Average amount received from each passenger,			107	645
Average receipts per passenger per mile,			01	955
Estimated cost of carrying each passenger one mile,				
Total passenger earnings,		1972528	04	
Passenger earnings per mile of road,		23063	0	
Passenger earnings per train mile,			132	178
FREIGHT TRAFFIC:				
Number of tons carried of freight earning revenue,	20399557 —			
Number of tons carried one mile,	5188952589 —			
Average distance hauled of one ton,	254.36			
Total freight revenue,		4334640	78	
Average amount received for each ton of freight,			212	486
Average receipts per ton per mile,			00	835
Estimated cost of carrying one ton one mile,				
Total freight earnings,		4341693	89	
Freight earnings per mile of road,		50763	6	
Freight earnings per train mile,			2	78 023
PASSENGER AND FREIGHT:				
Passenger and freight revenue,		5903517	020	
Passenger and freight revenue per mile of road,		690347		
Passenger and freight earnings,		6314221	917	
Passenger and freight earnings per mile of road,		738935		
Gross earnings from operation,		4147916	945	
Gross earnings from operation per mile of road,		484980		
Expenses,				
Expenses per mile of road,		484477		
TRAIN MILEAGE:				
Miles run by passenger trains,	13505797 —			
Miles run by freight trains,	14198894 —			
Miles run by mixed trains,	1417388 —			
Total mileage trains earning revenue,	29122059 —			
Miles run by switching trains,				
Miles run by construction and other trains,	120446 —			
Grand total train mileage,	29242505 —			
Mileage of loaded freight cars—North or East,				
Mileage of loaded freight cars—South or West,	32996387 —			
Mileage of empty freight cars—North or East,				
Mileage of empty freight cars—South or West,	15158426 —			
Average number of freight cars in train,	3084			
Average number of loaded cars in train,	2113			
Average number of empty cars in train,	971			
Average number of tons of freight in train,	33228			
Average number of tons of freight in each loaded car,	1573			

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MILEAGE.

A. MILEAGE OF ROAD OPERATED

LINE IN USE.	Line Represented by Capital Stock.		Line of proprietary companies	Line operated under lease.	Line operated under contract, etc.	Line operated under trackage rights.	Total mileage operated.	New line constructed during year.	Rails.	
	Main line.	Branches and spurs.							Iron.	Steel.
Miles of single track, main line.	82241	753614				20309	856164	6327	5838	830017
Miles of second track, main line.	44717	7594					52311	2664		52311
Miles of third track, main line.	2355						2355			2355
Miles of fourth track, main line.										
Miles of yard track and sidings.	63759	155621					219380	9841	29074	190306
Total mileage operated (all tracks).	193072	916829				20309	1130210	18832	34912	1074989

B. MILEAGE OF LINE BY STATES AND TERRITORIES.

I. Mileage Operated by Road Making This Report.

STATE OR TERRITORY.	Line Represented by Capital Stock.		Line of proprietary companies.	Line operated under Lease.	Line operated under contract, etc.	New line constructed during year.	Total mileage excluding trackage rights.	Line operated under trackage rights.	Rails.	
	Main Line.	Branches and spurs.							Iron.	Steel.
Illinois	35620	117237					152862	3869	1218	151644
Iowa	27455	109430					136905	7105	2739	134166
Wisconsin		22257					22257	53		22257
Minnesota		2361					2361			2361
Missouri		113250				6327	113250	14824		113250
Kansas		25962					25962	829		25962
Nebraska	19161	241963					261123	2028	1861	259262
South Dakota		2816					2816			2816
Wyoming		3153					3153			3153
Montana		18728					18728	1262		18728
Colorado		3438					3438	3497		3438
Total mileage operated (single track).	82241	753614					835855	20309	5838	830017

II. Mileage Owned by Road Making This Report.

Illinois	35625	117237					152862		1218	151644
Iowa	27455	109450					136905		2739	134166
Wisconsin		22257					22257			22257
Minnesota		2361					2361			2361
Missouri		113250				6327	113250			113250
Kansas		25962					25962			25962
Nebraska	19161	241963					261123		1861	259262
South Dakota		2816					2816			2816
Wyoming		3153					3153			3153
Montana		18728					18728			18728
Total mileage owned (single track).		3438					3438			3438
	82241	753614					835855		5838	830017

MILEAGE OWNED AND OPERATED UNDER LEASE IN MISSOURI.

Miles of single track in Missouri owned,	113250	Miles of single track in Missouri operated under lease,	929
Miles of second track in Missouri,	5254	Miles of second track in Missouri operated under lease.	None
Miles of third track in Missouri,	----	Miles of yard track in Missouri operated under lease,	"
Miles of yard track in Missouri,		Miles of sidings track in Missouri operated under lease,	"
Miles of sidings in Missouri,	37460		
Total—all tracks in Missouri owned,	155964		

ALL LINES NOT REPORTED BY OTHER COMPANIES.

NAME.	TERMINALS.		Miles of line for each road named.		
	From	To			
Des Moines & Kansas City R.R.	Des Moines, Ia.	Cainsville, Mo.	118	8	
Leon Mt. Ayr & So. Western "	Leon "	Mount Ayr "			
Do.	Bethany Jct. "	Adams "	115	08	
St. Joseph & Des Moines "	Albany, Mo. "	St. Joseph "			
Grand City & Southern "	Grand City. "	Albany Jct. "			
Burlington & Mo. River "	Creston "	Hopkins "	52	30	
C. C. & I. C. & O. R. "	Hopkins "	Agnes Corona "			
Hannibal & St. Joseph "	Hannibal "	St. Joseph. "	206	52	
Do	At St. Joseph "		2	57	
Quincy & Palmyra "	West Quincy "	Palmyra Jct. "	12	70	
Kansas City & Cameron "	Cameron Jct. "	Kansas City "	53	83	
Quincy Bridge "	West Quincy "	Mo. & Ill. State Line		13	
St. L. & N. W. "	Keokuk "	St. Louis, Mo.	174	78	
Old Mission - Mexico "	Old Monroe "	Fulton "	63	27	
Iowa & St. Louis Ry.	Sedan, Ia.	Memphis "	46	61	
Kans. City, St. Jo. & C. B. R.	Kansas City, Mo.	Council Bluffs, Iowa	139	69	
Do	Leavenworth "	Stillings, Mo.		05	
Do.	Gruson "	Winthrop "		351	
Brownville & Nod. Valley "	Villisca, Iowa	Bur. Jct. "	41	28	
Nodaway Valley "	Burlington Jct. Mo.	Bigelow "			
Tarkio & "	Northboro, Iowa	Conway "	25	44	
Chgo. Bur. & Kas. City. "	Tiole "	Carrollton "	103	29	
Wabash & Western "	Van Wert "	Alexandria "	69	62	
St. Joseph & Nebraska "	Napier "	Roswell "		586	
Atchison & Nebraska "	Platte Bridge Line			309	
		Total mileage,			

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Consolidated Report Ex. 21

ANNUAL STATEMENT

OF THE

Chicago Burlington & Quincy Railroad Company

TO THE

RAILROAD AND WAREHOUSE COMMISSIONERS

OF THE

STATE OF MISSOURI

FOR THE YEAR ENDING JUNE 30, 1906

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THE HUGH STEPHENS PRINTING COMPANY,
JEFFERSON CITY, MO.

STATE OF MISSOURI,

Office of the Railroad and Warehouse Commissioners,

CITY OF JEFFERSON.

The attention of officers of companies owning or operating railroads in this State is especially called to SECTION 1070, Revised Statutes of Missouri, 1899, relating to annual statements by railroad companies, as follows:

SECTION 1070. The directors of every railroad company or corporation which is now or hereafter may be organized under the laws of this state shall hold a meeting on the second Tuesday in March of each year, for the transaction of such business as may properly come before them, at their office or place of business which shall have been established in this state—30 days' notice having been given by publication in two or more newspapers having the greatest circulation in the county or city in which the office of such railroad company or corporation shall be situated. The general manager or other chief officer of every such company or corporation, and the manager or other chief officer of every railroad company or corporation organized under the laws of another state, and owning, leasing, operating or controlling a railroad within this state, shall, on or before the first day of September of each year, transmit to the office of the railroad and warehouse commissioners of this state a statement in detail of the affairs of such company or corporation as the same existed on the 30th day of June first preceding, and of the business operation of such company or corporation for the year ending the 30th day of June as aforesaid. Said statement must be certified to under the oath of the proper officer of said company or corporation, and must be made out upon printed forms, furnished by the railroad and warehouse commissioners, which printed forms shall contain all interrogatories necessary to obtain a full statement, in detail of the organization, condition, business affairs and operations of such railroad company or corporation for the year ending the 30th day of June as aforesaid. The railroad and warehouse commissioners shall, on or before the 31st day of December of each year, transmit to the governor of this state a report of their official acts for the year ending on the 30th day of June as aforesaid; and the said report shall also contain a condensation of statistics, tabulated from the returns of the several railroad companies, together with all such information and recommendations concerning the regulation of the railroads of this state as the said commissioners may deem to be of public interest and importance.

The Commissioners expect a prompt compliance with the foregoing, and urge upon the proper officers of the several railroad companies the importance of filing their annual statements as nearly as possible in accordance with date required by law. Failure to file the statements promptly necessitates delay in the preparation and publishing of the annual reports of this Board. It is very important that the reports be ready for publication in December of each year.

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1. Name of common carrier making this report?

The Chicago Burlington & Quincy Railroad Company

2. Date of organization?

Charter Act passed Feb. 14" 1855

3. Under the laws of what Government, State or Territory organized? If more than one, name all; give reference to each statute and all amendments thereof.

Illinois.

4. If a consolidated company, name the constituent companies. Give reference to charters of each and all amendments of same.

Aurora Branch R.R. Co. Charter Feb. 12" 1849 amended June 22 1852. (name changed to Chicago & Aurora R.R. Co.) Amended Feb. 14" 1855, changing name to Chicago Burlington Quincy R.R. Co.

Central Military Tract R.R. Charter Feb. 15" 1851 amended June 19th 1852 and Feb. 11" 1853. Consolidated with the C.B. & Q. R.R. Co. July 9 – 1856.

Peoria & Oquawka R.R. Co. Charter Feb. 12" 1849 amended Feb. 10" 1851 June 22" 1852. Feb. 8" 1853 Feb. 21" 1861 (changing name to Logansport, Peoria & Burlington R.R. Co.) Master's sale Oct. 29-1862 March 8-1864. name changed to Peoria & Burlington R.R. Co. Consolidated with the C.B. & Q. R.R. Co. June 24-1864.

5. Date and authority for each consolidation.

Northern Cross R.R. Charter Apr. 13" 1849 Amended Feb. 1 -1851 June 11" 1852 June 21" 1852 Feb. 10-1853 Feb. 10-1857 (name changed to Quincy & Chicago R.R. Co. Master's sale Apr. 28" 1864 & conveyed to C.B. & Q. R.R. Co. July 30" 1865.

Burlington & Mo. R.R.R. incorporated Jan. 15" 1850 & the B. & Mo. River R.R. in Net incorporated May 12-1869 Consolidated with the C.B. & Q. R.R. Co. Jan. 1-1880.

6. If a reorganized company, give name of original corporation, and refer to laws under which it was organized.

Not Reorganized

7. [For companies not making operating reports.] What carrier operates the road of this company?

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ORGANIZATION.

NAMES OF DIRECTORS.	POSTOFFICE ADDRESS.	DATE OF EXPIRATION OF TERM.
Robert Bacon	New York City.	Nov. 7th 1906
Geo. F. Baker.	" " "	" " "
Geo. P. Clark	" " "	" " "
Wm P. Clough.	" " "	" " "
Geo. B. Harris	Chicago, Ill.	" " "
James J. Hill	St. Paul, Minn.	" " "
James N. Hill	St. Paul, Minn.	" " "
John J. Mitchell	Chicago, Ill.	" " "
Charles E. Perkins	Burlington, Iowa	" " "
Norman B. Ream	New York City.	" " "
Samuel Thorne	" " "	" " "

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Total number of stockholders at date of last election, 434.

Date of last meeting of stockholders for election of directors, Nov 1st 1905

Give postoffice address of general office, 209 Adams St Chicago.

Give postoffice address of operating office, 209 Adams St Chicago.

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OFFICERS.

President	Geo.B.Harris	Chicago, Ill.
Assistant to President	W.W.Baldwin	Burlington, Ia.
Ist Vice President	D.Miller	Chicago,
2nd Vice President	D.Willard	"
Secretary	H.E.Jarvis	Burlington, Ia.
Treasurer	T.S.Howland	Chicago,
General Counsel	J.W.Blythe	Burlington, Ia.
General Solicitor	C.M.Dawes	Chicago,
" "	C.F.Manderson	Omaha, Neb.
" "	O.M.Spencer	St.Joseph, Mo.
General Auditor	C.I.Sturgis	Chicago
Assistant General Auditor	Geo.B Dunbar	"
Auditor	W.P.Durkee	Omaha, Neb.
General Manager	J.M.Gruber	Chicago,
" "	Holdredge G.W.,	Omaha, Neb
Chief Engineer	T.E.Calvert	Chicago,
General Superintendent	H.D.Judson	"
" "	W.B.Throop	Burlington, Ia.
" "	C.T.Ross	St.Louis, Mo.
" "	H.E.Byram	Lincoln Neb.
" "	J.R.Phelan	Alliance, Neb.
Sup't of Telegraph	W.W.Ryder	Chicago
Freight Traffic Manager	C.H.Crosby	"
General Freight Agent	W.B.Hamblin	"
" " "	W.Gray	St.Louis, Mo.
" " "	C.E.Spence	Omaha, Neb.
Ass't Gen. " "	E.R.Puffer	Chicago,
" " " "	Geo.Morton	"
" " " "	G P.Lyman	St.Paul, Minn.
" " " "	A.L.West	St.Joseph, Mo.
" " " "	A.S.Smith	Omaha, Neb.
" " " "	F.Montmorency	" "
" " " "	W.W.Johnson	" "
" " " "	W.A.Holley	Chicago,
Pass.Traffic Mgr.,	F.S.Eustis	"
General Passenger Agent	Jno.Francis	"
General Passenger Agent	B.W.Wakeley	Omaha, Neb.
Asst.Gen." "	F.E.Bell	Chicago,
" " " "	W.A.Lalor	St.Louis, Mo.
" " " "	J.E.Buckingham	Omaha, Neb.
General Baggage Agent	John DeWitt	Chicago.

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COST OF ROAD, EQUIPMENT AND PERMANENT IMPROVEMENTS.

ITEM.	EXPENDITURES DURING YEAR. Included in Operating Expenses.	Not Included in Operating Expenses. Charged to Income Account as Permanent Improvement.	Not Included in Operating Expenses. Charged to Construction of Equipment.	Total Cost to June 30, 190....	Cost per Mile.
CONSTRUCTION:					
Frogs & Switches			55246 85		
Right of way, & Station Grounds			1094021 21		
~~Other~~ real estate,			25102 84		
Fencing & Right of way			33020 76		
Grading ~~and bridge and culvert masonry~~,			1784330 88		
Track fastenings			165300 34		
Bridges ~~and~~ trestles, & Culverts			761790 33		
Rails,			738060 65		
Ties,			507082 04		
Ballast			32948 50		
~~Other superstructure,~~ Track Laying & Surfacing			441482 70		
Station Buildings, ~~furniture~~ and fixtures,			91695 02		
Shop machinery and tools,			16619 49		
Storage Warehouses			5035 36		
Engineering ~~expenses~~,			79348 21		
Docks & Wharves			304 06		
~~Interest during construction,~~			41978 14		
Interlocking or Signal apparatus			106396 04		
~~Discount on securities sold for construction.~~ Water Station			49676 69		
Telegraph line,			1440		
Electric light plants			748 30		
~~Wharfing,~~ etc., Electric Motive Power Plants			77761 17		
Shops Roundhouses & Structures			7240 55		
~~Sidings and yard extensions,~~			27914 46		
Miscellaneous Structures			28381 03		
~~Terminal facilities and elevators,~~ Fuel Stations			114536 68		
Crossings Cattle guards & Signs			3771 57		
~~Road built by contract,~~ Grain elevators			1651 80		
Purchase of constructed road,			2950 00		
Legal expenses			34399 57		
~~Other items,~~ Interest & Discounts			6428715 92		
General expenses					
Total construction,					
EQUIPMENT:					
Locomotives,			1782386 87		
Passenger cars,			758 31		
Sleeping, parlor and dining cars,			38790 47		
Baggage, express and postal cars,			62029 07		
Combination cars,			417 90		
Freight cars,			1489701 88		
Other cars of all classes,			137540 36		
Floating equipment,					
Total equipment,			3386050 10		
Grand total cost construction, equipment, etc.,			9814766 02	337755289 59	39858 16
Total cost construction, equipment, etc.— State of Missouri,					

Cannot give Details as Records were destroyed in Chicago Fire of 1871

INCOME ACCOUNT.

FOR ROADS MAKING OPERATING REPORTS.

Gross earnings from operation,	73413385 88		
Less operating expenses,	50655161 43		
Income from operation,			22758224 45
Deficit,			
Dividends on stocks owned,	5400		
Interest on bonds owned,	7961022		
Miscellaneous income—less expenses,	3256732		
Income from other sources,			41068254
Total income,			23168906 99
Deficit,			
DEDUCTIONS FROM INCOME:			
Interest on funded debt accrued,	7345053 53		
Interest on interest-bearing current liabilities accrued, not otherwise provided for,			
Rents,			
Taxes,	2018494 16		
Permanent improvements,			
Other deductions,	952439 97		
Total deductions from income,			10315987 66
Net income,			12852919 33
Deficit,			
Dividends, per cent, common stock,			7758737
Dividends, per cent, preferred stock,			
Other payments from net income,			
Total,			
Surplus from operations of year ending June 30, 1906,			5094182 33
Deficit from operations of year ending June 30, 190 ,			
Surplus on June 30, 1905 [from "General Balance Sheet," 1905, Report],			36564252 41
Deficit on June 30, 190 [from "General Balance Sheet," 190 , Report].			
Additions for year,			
Deductions for year,			
Surplus on June 30, 1906 [for entry on "General Balance Sheet," 1906, Report],			41658434 74
Deficit on June 30, 190 [for entry on "General Balance Sheet," 190, Report],			

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See explanation on Page 7

ITEMS.	Total Receipts.	Deductions account of repayments, etc.	Actual Earnings.
PASSENGER:			
Passenger revenue,			
Less repayments,			
Tickets redeemed,			
Excess fares refunded,			
Other repayments,			
Total deductions,			
Total passenger revenue,			16 211 665 44
Mail,			2 319 000 01
Express,			1 440 392 60
Extra baggage and storage,			245 713 39
Other items,			241 569 67
Total passenger earnings,			20 458 341 11
FREIGHT:			
Freight revenue,			
Less repayments,			
Overcharges to shippers,			
Other payments,			
Total deductions,			
Total freight revenue,			50 714 275 74
Stock yards,			78 498 62
Elevators,			
Other items,			
Total freight earnings,			50 792 774 36
Total passenger and freight earnings			71 251 715 47
OTHER EARNINGS FROM OPERATION:			
Car mileage, balance,			
Switch charges, ~~balance,~~			970 539 72
Telegraph ~~companies,~~ Earnings			180 804 76
Rents from tracks, yards and terminals,			681 808 89
Rentals not otherwise provided for,			
Other sources,			329 117 04
Total other earnings,			2 162 270 41
Total gross earnings from operation, whole line,			73 413 385 88

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ITEMS.	Total Receipts.	Deductions account of repayments, etc.	Actual Earnings.
PASSENGER:			
Passenger revenue,			
Less repayments,			
Tickets redeemed,			
Excess fares refunded,			
Other repayments,			
Total deductions,			
Total passenger revenue,			
Mail,			
Express,			
Extra baggage and storage,			
Other items,			
Total passenger earnings,			
FREIGHT:			
Freight revenue,			
Less repayments,			
Overcharges to shippers.			
Other repayments,			
Total deductions,			
Total freight revenue,			
Stock yards,			
Elevators,			
Other items,			
Total freight earnings,			
Total passenger and freight earnings.			
OTHER EARNINGS FROM OPERATION:			
Car mileage, balance,			
Switch charges, balance,			
Telegraph companies,			
Rents from tracks, yards and terminals,			
Rentals not otherwise provided for,			
Other sources,			
Total other earnings,			
Total gross earnings from operation, Missouri.			
Total gross earnings from operation, whole line.			

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ITEM.	Total
MAINTENANCE OF WAY AND STRUCTURES:	
1. Repairs of Roadway,	5187798 21
2. Renewals of Rails,	904734 50
3. Renewals of Ties,	1364303 69
4. Repairs of Bridges and Culverts,	1548122 94
5. Repairs of Fences, Road-Crossings, Signs and Cattle Guards,	205905 24
6. Repairs of Buildings,	1163021 60
7. Repairs of Docks and Wharves,	46258 1
8. Repairs of Telegraph,	230228 19
9. Other Expenses,	
Total,	10608740 18
MAINTENANCE OF EQUIPMENT:	
10. Repairs and renewals of Locomotives,	5113800 83
11. Repairs and renewals of Passenger Cars,	839504 96
12. Repairs and renewals of Freight Cars,	7058369 74
13. Repairs and renewals of ~~Ferry-Boats, Tugs, Floats and Barges,~~ Work Cars	134075 51
14. Shop Machinery, Tools, etc.,	415313 11
15. Other Expenses,	96328 19
Superintendence	281580 47
Total,	13938972 81
CONDUCTING TRANSPORTATION:	
16. Wages of Enginemen, Firemen and Round-House-Men,	4059901 94
17. Fuel of Locomotives,	5149477 00
18. Water Supplies for Locomotives,	272776 46
19. All other supplies for Locomotives,	183855 81
20. Wages of other Trainmen,	2051940 62
21. All other Train Supplies,	208306 65
22. Wages of Switchmen, Flagmen and Watchmen,	1701256 65
23. Expense of telegraph, including Train Dispatchers and Operators,	903958 07
24. Wages of Station Agents, Clerks and Laborers,	2760861 47
25. Station Supplies,	398548 01
26. Switching Charges—Balance,	65780 72
27. Car Mileage—Balance,	609025 14
28. Loss and Damage,	656468 1
29. Injuries to persons,	339334 42
30. ~~Barges, Floats, Tugs, Ferry Boats, expenses of, including Wages, Fuel and supplies,~~ Use of Equipment—Balance	47768 79
31. Other Expenses,	144752 2
Other supplies for Locomotives	112239 24
Superintendence	107026 77
Clearing Wrecks	117938 81
Total,	22088305 75

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ITEM.	Total.
GENERAL EXPENSES:	
32. Salary of Officers,	404087 27
33. Salaries of Clerks,	697680 85
34. General Office Expenses and Supplies,	93702 11
35. ~~Agencies, including Salaries and Rent,~~ Outside Agencies.	603490 91
36. Advertising,	218177 00
37. Commissions,	
38. Insurance,	246713 89
39. Expense of Fast Freight Lines,	
40. Expense of Traffic Association,	
41. Expenses of Stock Yards and Elevators,	
42. Rents for Tracks, Yards and Terminals,	1114628 18
43. Rents not otherwise provided for,	
44. Legal Expenses,	208739 79
45. Stationery and Printing,	310330
46. Other General Expenses,	121819 89
Total,	4019142 69
RECAPITULATION OF EXPENSES:	
47. Maintenance of Way and Structure,	10608740 18
48. Maintenance of Equipment,	13988972 81
49. Conducting Transportation,	22088305 75
50. General Expenses,	4019142 69
Grand Total,	50655161 43
Percentage of Expenses to Earnings—Entire Line,	69 00
OPERATING EXPENSES—STATE OF MISSOURI:	
Maintenance of Way and Structure,	
Maintenances of Equipment,	
Conducting Transportation,	
General Expenses,	
Total,	
Percentage of Expenses to Earnings—Missouri,	
Taxes paid in Missouri,	
State,	
County, Municipal and School,	

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COMPARATIVE GENERAL BALANCE SHEET.

JUNE 30, 1902		ASSETS.	JUNE 30, 1906		YEAR ENDING JUNE 30, 1906	
Item.	Total.		Item.	Total.	Increase.	Decrease.
327940 52357		Cost of road, Cost of Equipment,	337755 28959		9814766 02	
370 21578		Stocks of other companies owned,	329749 12			40466 66
1276465 50		Bonds of other companies owned,	1330093		53627 50	
11477735 13		Other permanent investments,	11454 14438			235907 75
113 94152		Lands owned,	117 69258 1		449842 9	
1302 61352 6		Cash and current assets,	1890 56475 5		58795 1229	
		OTHER ASSETS:				
4810 45464		Materials and supplies,	4989 45136		173 99672	
15304 63636		Sinking fund,	16276 24264		971 60628	
		Sundries,				
		Profits and Loss,				
325 33810776		Grand total,	392 21254845		16874435 69	

COMPARATIVE GENERAL BALANCE SHEET.

JUNE 30, 190.5. Item.	JUNE 30, 190.5. Total.	LIABILITIES.	JUNE 30, 190.6. Item.	JUNE 30, 190.6. Total.	YEAR ENDING JUNE 30, 190.6. Increase.	YEAR ENDING JUNE 30, 190.6. Decrease.
	110839100	Capital Stock,	110839100			
	170512000	Funded Debt,	174172000		3659900	
	7214296 82	Current Liabilities,	8712299 98		1478031 6	
	5477491	Accrued Interest on Funded Debt not yet payable,	889780			4587711
	1000000000	Renewal Fund	1000000000			
	2197375 23	Cement Accounts Bal.	6447363 57		424998828	
	2455997936	Sinking Funds	2605733913		149735977	
	13408063	Profit + Loss	1433491389		92684089	
	3666196826	Income Account ~~Profits and Loss~~	4165843474		499646648	
	8758381076	Grand total.	9922125434 5		1687443569	

ITEM.	Column for Tonnage, No. Passengers, No. Trains, Mileage, No. Cars.	Columns for Revenue and Rates.	
		Dollars.	Cts. M.
PASSENGER TRAFFIC:			
Number of passengers carried earning revenue,			
Number of passengers carried one mile,			
Average distance carried,			
Total passenger revenue,			
Average amount received from each passenger,			
Average receipts per passenger per mile,			
Estimated cost of carrying each passenger one mile,			
Total passenger earnings,			
Passenger earnings per mile of road,			
Passenger earnings per train mile,			
FREIGHT TRAFFIC:			
Number of tons carried of freight earning revenue,			
Number of tons carried one mile,			
Average distance hauled of one ton,			
Total freight revenue,			
Average amount received for each ton of freight,			
Average receipts per ton per mile,			
Estimated cost of carrying one ton one mile,			
Total freight earnings,			
Freight earnings per mile of road,			
Freight earnings per train mile,			
PASSENGER AND FREIGHT:			
Passenger and freight revenue,			
Passenger and freight revenue per mile of road,			
Passenger and freight earnings,			
Passenger and freight earnings per mile of road,			
Gross earnings from operation,			
Gross earnings from operation per mile of road,			
Expenses,			
Expenses per mile of road,			
TRAIN MILEAGE:			
Miles run by passenger trains,			
Miles run by freight trains,			
Miles run by mixed trains,			
Total mileage trains earning revenue,			
Miles run by switching trains,			
Miles run by construction and other trains,			
Grand total train mileage,			
Mileage of loaded freight cars—North or East,			
Mileage of loaded freight cars—South or West,			
Mileage of empty freight cars—North or East,			
Mileage of empty freight cars—South or West,			
Average number of freight cars in train,			
Average number of loaded cars in train,			
Average number of empty cars in train,			
Average number of tons of freight in train,			
Average number of tons of freight in each loaded car,			

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ITEM.	Column for Tonnage, No. Passengers, No. Trains, Mileage, No. Cars.	Columns for Revenue and Rates. Dollars.	Cts.	M.
PASSENGER TRAFFIC:				
Number of passengers carried earning revenue,	15179634			
Number of passengers carried one mile,	794171881			
Average distance carried,	5231			
Total passenger revenue,		1621166544		
Average amount received from each passenger,			106799	
Average receipts per passenger per mile,			02041	
Estimated cost of carrying each passenger one mile,				
Total passenger earnings,		2045834111		
Passenger earnings per mile of road,		237659		
Passenger earnings per train mile,			150533	
FREIGHT TRAFFIC:				
Number of tons carried of freight earning revenue,	23217160			
Number of tons carried one mile,	6303883569			
Average distance hauled of one ton,	27152			
Total freight revenue,		5071427574		
Average amount received for each ton of freight,			218434	
Average receipts per ton per mile,			00804	
Estimated cost of carrying one ton one mile,				
Total freight earnings,		5079277486		
Freight earnings per mile of road,		590047		
Freight earnings per train mile,			298431	
PASSENGER AND FREIGHT:				
Passenger and freight revenue,		6692594118		
Passenger and freight revenue per mile of road,		777462		
Passenger and freight earnings,		7125111547		
Passenger and freight earnings per mile of road,		827706		
Gross earnings from operation,		7341338588		
Gross earnings from operation per mile of road,		852825		
Expenses,		5065516143		
Expenses per mile of road,		588448		
TRAIN MILEAGE:				
Miles run by passenger trains,	14395262			
Miles run by freight trains,	15742307			
Miles run by mixed trains,	1277655			
Total mileage trains earning revenue,	31415224			
Miles run by switching trains,				
Miles run by construction and other trains,	106970			
Grand total train mileage,	31522194			
Mileage of loaded freight cars—North or East,	38137328			
Mileage of loaded freight cars—South or West,				
Mileage of empty freight cars—North or East,	17068451			
Mileage of empty freight cars—South or West,				
Average number of freight cars in train,	5244			
Average number of loaded cars in train,	2241			
Average number of empty cars in train,	1003			
Average number of tons of freight in train,	37038			
Average number of tons of freight in each loaded car,	1653			

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MILEAGE.

A. MILEAGE OF ROAD OPERATED.

1371

LINE IN USE.	Line represented by Capital Stock.		Line of proprietary companies.	Line operated under lease.	Line operated under contract, etc.	Line operated under trackage rights.	Total mileage operated.	New line constructed during year.	Rails.	
	Main line.	Branches and spurs.							Iron.	Steel.
Miles of single track, main line.	822.41	765.152				203.09	867.02	61.15	69.72	840.4.21
Miles of second track, main line.	45.047	7.523					52.570			52.5.70
Miles of third track, main line.	2.355						2.355			2.3.55
Miles of fourth track, main line.										
Miles of yard track and sidings.	67.8.64	160.852					228.716	93.36	250.49	2036.67
Total mileage operated (all tracks).	1975.07	933.527				203.09	1157.343	154.51	320.21	1099.0.13

B. MILEAGE OF LINE BY STATES AND TERRITORIES.

I. Mileage Operated by Road Making This Report.

STATE OR TERRITORY.	Line Represented by Capital Stock.		Line of proprietary companies.	Line operated under Lease.	Line operated under contract, etc.	New line constructed during year.	Total mileage excluding trackage rights.	Line operated under trackage rights.	Rails.	
	Main Line.	Branches and spurs.							Iron.	Steel.
Illinois	356.25	128.217				52.30	1638.42	38.69	23.72	1614.70
Iowa	274.55	109.110					1365.65	71.05	27.39	1338.26
Wisconsin		22.257					22.257			22.257
Minnesota		23.61					23.61			23.61
Missouri		113.263					1132.63			1132.63
Kansas		25.962					259.62			259.62
Nebraska	191.61	241.963					2611.23	20.22	1861	2592.02
South Dakota		27.816					278.16			278.16
Wyoming		36.038				8.85	360.38			368.88
Montana		18.723					187.23	12.63		187.23
Colorado		39.438					394.38	34.97		394.38
Total mileage operated (single track),	822.41	765.152				61.15	8473.93	203.09	69.72	8404.21

II. Mileage Owned by Road Making This Report.

Illinois	356.25	128.217				52.30	1638.42	38.69	23.72	1614.70
Iowa	274.55	109.110					1365.65	71.05	27.39	1338.26
Wisconsin		22.257					22.257			22.257
Minnesota		23.61					23.61			23.61
Missouri		113.263					1132.63			1132.63
Kansas		25.962					259.62			259.62
Nebraska	191.61	241.963					2611.23	20.22	1861	2592.02
South Dakota		27.816					278.16			278.16
Wyoming		36.038				8.85	360.38			368.88
Montana		18.723					187.23	12.63		187.23
Colorado		39.438					394.38	34.97		394.38
Total mileage owned (single track),	822.41	765.152				61.15	8473.93	203.09	69.72	8404.21

MILEAGE OWNED AND OPERATED UNDER LEASE IN MISSOURI.

Miles of single track in Missouri owned	1132.63	Miles of single track in Missouri operated under lease,	929
Miles of second track in Missouri,	50.23	Miles of second track in Missouri operated under lease,	None
Miles of third track in Missouri,		Miles of yard track in Missouri operated under lease,	"
Miles of yard track in Missouri,		Miles of sidings track in Missouri operated under lease,	"
Miles of sidings in Missouri,	373.29		
Total—all tracks in Missouri owned,	1556.15		

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ALL LINES NOT REPORTED BY OTHER COMPANIES.

NAME.	TERMINALS. From	TERMINALS. To	Miles of line for each road named.	
Des Moines Kansas City R.R.	Des Moines Ia	Camsville Mo.	11	88
Leon Mt. Ayr & So. West "	Leon Ia	Grant City "		
Do "	Bethany Jct. Ia	Albany "	115	08
St. Joseph & Des Moines "	Albany Mo.	St. Joseph "		
Grant City & Southern "	Grant City	Albany Jct. "		
Burlington & Mo River "	Gestor Iowa	Hopkins Mo.		
K.C. St. J. & C.B. "	Hopkins Mo.	Amazonia "	52	30
Hannibal & St. Joseph "	Hannibal "	St. Joseph "	206	52
Do "	At St. Joseph		2	57
Quincy & Palmyra "	West Quincy, Mo	Palmyra Jct. "	12	85
Kansas City & Cameron "	Cameron Jct. "	Kansas Cy. "	53	83
Quincy Bdg. "	West Quincy "	Mo. Ill. St. Line "		13
St. L. K. & N. W. "	Keokuk Ia	St. Louis, Mo.	174	76
Old Monroe Mexico "	Old Monroe, Mo	Frances "	63	27
Iowa St. Louis Ry.	Sedan Ia	Mercyville "	46	61
Kansas City St. J. & C.B. R.R.	Kansas Cy. Mo	Co. Bluffs, Ia	139	69
Do	E. Leavenworth "	Stillings, Mo	1	05
Do	Amoni "	Winthrop "	3	51
Bronnville & Nodaway Valley	Vellesca Ia	Burl. Jct. "	41	28
Nodaway Valley "	Burl. Jct. Mo.	Bigelow "		
Tarkio Valley "	Northboro, Ia	Corning "	25	44
Chicago Burlington & K.C. "	Ville Ia	Carrollton "	103	29
Keokuk & Western "	Van Wert "	Alexandria "	69	62
St. Joseph & Nebraska "	Napier Mo.	Boswell "	5	86
Atchison & Nebraska "	Rulo Bridge	Line	3	09
		Total mileage,	1132	63

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3018

Financial Report E4.32

ANNUAL STATEMENT

OF THE

Chicago Burlington & Quincy Railroad Company

TO THE

RAILROAD AND WAREHOUSE COMMISSIONERS

OF THE

STATE OF MISSOURI

FOR THE YEAR ENDING JUNE 30, 1906

THE HUGH STEPHENS PRINTING COMPANY,
JEFFERSON CITY, MO.

3019

1373

STATE OF MISSOURI,

Office of the Railroad and Warehouse Commissioners,

CITY OF JEFFERSON.

The attention of officers of companies owning or operating railroads in this State is especially called to SECTION 1070, Revised Statutes of Missouri, 1899, relating to annual statements by railroad companies, as follows:

SECTION 1070. The directors of every railroad company or corporation which is now or hereafter may be organized under the laws of this state shall hold a meeting on the second Tuesday in March of each year, for the transaction of such business as may properly come before them, at their office or place of business which shall have been established in this state—30 days' notice having been given by publication in two or more newspapers having the greatest circulation in the county or city in which the office of such railroad company or corporation shall be situated. The general manager or other chief officer of every such company or corporation, and the manager or other chief officer of every railroad company or corporation organized under the laws of another state, and owning, leasing, operating or controlling a railroad within this state, shall, on or before the first day of September of each year, transmit to the office of the railroad and warehouse commissioners of this state a statement in detail of the affairs of such company or corporation as the same existed on the 30th day of June first preceding, and of the business operation of such company or corporation for the year ending the 30th day of June as aforesaid. Said statement must be certified to under the oath of the proper officer of said company or corporation, and must be made out upon printed forms, furnished by the railroad and warehouse commissioners, which printed forms shall contain all interrogatories necessary to obtain a full statement, in detail of the organization, condition, business affairs and operations of such railroad company or corporation for the year ending the 30th day of June as aforesaid. The railroad and warehouse commissioners shall, on or before the 31st day of December of each year, transmit to the governor of this state a report of their official acts for the year ending on the 30th day of June as aforesaid; and the said report shall also contain a condensation of statistics, tabulated from the returns of the several railroad companies, together with all such information and recommendations concerning the regulation of the railroads of this state as the said commissioners may deem to be of public interest and importance.

1874

3019 21

The Commissioners expect a prompt compliance with the foregoing, and urge upon the proper officers of the several railroad companies the importance of filing their annual statements as nearly as possible in accordance with date required by law. Failure to file the statements promptly necessitates delay in the preparation and publishing of the annual reports of this Board. It is very important that the reports be ready for publication in December of each year.

1. Name of common carrier making this report?

The Chicago Burlington & Quincy Railroad Company.

2. Date of organization?

Charter Act passed Feb. 14" 1855.

3. Under the laws of what Government, State or Territory organized? If more than one, name all; give reference to each statute and all amendments thereof.

Illinois

5. If a consolidated company, name the constituent companies. Give reference to charters of each and all amendments of same.

Aurora Branch R.R. Co. Charter Feb. 12" 1849. Amended June 12" 1852. (name changed to Chicago & Aurora R.R. Co.) Amended Feb. 14" 1855. Changing name to Chicago, Burlington & Quincy R.R. Co.

Central Military Tract R.R. Charter Feb. 15" 1851. Amended June 19" 1852 & Feb. 11" 1853. Consolidated with the C.B. & Q.R.R. Co. July 9" 1856.

Peoria & Oquawka R.R. Co. Charter Feb. 12" 1849. amended Feb. 10" 1851. July 22" 1852. Feb. 8" 1853. Feb. 21" 1861. (changing name to Logansport, Peoria & Burlington R.R. Co.) Mortgage sale Feb. 24" 1863. Modified 8" 1864. Name changed to Peoria & Burlington R.R. Co. Consolidated with the C.B. & Q.R.R. Co. June 24" 1864.

Northern Cross R.R. Charter Feb. 13" 1849. Amended Feb. 15" 1851. June 11" 1852. June 21. 1852. Feb. 10" 1853. Feb. 10" 1853. (name changed to Quincy & Chicago R.R. Co.) Mortgage sale Oct. 28" 1864 & Conveyed to take C.B. & Q.R.R. Co. July 30, "1865.

3019½

5. Date and authority for each consolidation.

Burlington & Missouri River R.R. incorporated Jan. 15" 1850 & the Burlington & Missouri River R.R. in Neb. incorporated May 12" 1869. Consolidated with the C.B. & Q.R.R. Co. Jan. 1st. 1880.

6. If a reorganized company, give name of original corporation, and refer to laws under which it was organized.

Not Reorganized

7. [For companies not making operating reports.] What carrier operates the road of this company?

1925

ORGANIZATION.

NAMES OF DIRECTORS.	POSTOFFICE ADDRESS.	DATE OF EXPIRATION OF TERM.
Robert Bacon	New York City.	Nov 7" 1906
Geo. F. Baker.	New York City.	" " "
Geo. C. Clark	New York City	" " "
Wm. P. Clough	New York City.	" " "
Geo. B. Harris.	Chicago. Ill	" " "
James J. Hill	St. Paul. Minn.	" " "
James N. Hill	St. Paul. Minn.	" " "
John J. Mitchell	Chicago Ill.	" " "
Chas. E. Perkins	Burlington Iowa	" " "
Norman B. Ream	New York City.	" " "
Samuel Thorne	New York City	" "

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Total number of stockholders at date of last election, 434

Date of last meeting of stockholders for election of directors, Nov. 1st 1905.

Give postoffice address of general office, 209 Adams St. Chicago, Ill.

Give postoffice address of operating office, 209 Adams St. Chicago, Ill

TITLE.	NAME	LOCATION OF OFFICE.
Chairman of the Board,		
President,	Geo. B. Harris	Chicago, Ill.
~~First~~ Vice-President,	J. S. Howland	" "
Second Vice-President,		
Third Vice-President,		
Secretary,	J. S. Howland	" "
Treasurer,	J. S. Howland	" "
General Solicitor,		
Attorney, or General Counsel,		
Comptroller,		
Assistant Comptroller,		
Auditor,		
Assistant Auditor,		
General Manager,		
Assistant General Manager,		
Chief Engineer,		
General Superintendent,		
Asst. General Superintendent,		
Division Superintendent,		
Division Superintendent,		
Division Superintendent,		
Superintendent of Telegraph,		
Traffic Manager,		
Asst. Traffic Manager,		
General Freight Agent,		
Asst. General Freight Agent,		
General Passenger Agent,		
Asst. General Passenger Agent,		
General Ticket Agent,		
Asst. General Ticket Agent,		
General Baggage Agent,		
Superintendent of Express,		
Land Commissioner,		

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1877

PROPERTY LEASED OR OTHERWISE ASSIGNED FOR OPERATION.

FOR ROADS NOT MAKING OPERATING REPORTS.

NAME OF RAILROAD, THE INCOME OF WHICH FROM LEASE OR FROM OTHER ASSIGNMENT FOR OPERATION IS INCLUDED IN THE INCOME ACCOUNT.

NAME.	TERMINALS.		By what company operated.	Under what kind of contract operated.	Miles of line.
	From	To			
C.B.+Q.	Various	Various	C.B.+Q. Ry. Co.	Lease	843.93

*Give here a full explanation of the contract existing between road (or roads), and the company by which it is operated.

The roads and property of the Chicago,Burlington & Quincy Railroad Company and leased to and operated by the Chicago,Burlington & Quincy Railway Company, a corporation of the State of Iowa under written Lease for 99 years, dated November 20th,1901;the rental being payment by the Lessee of all the taxes assessed against the property and other fixed charges, togther with interest upon all outstanding bonds of the Lessor, and Sinking Fund requirements and dividends upon the capital Stock of the Lessor at the rate of seven (7%) percent annually.

A copy of this Lease is already on file in Missouri, as required by law;-Section 2571, Revised Statutes 1899. Filed November 25th,1904.

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*If copy of contract is already on file with Commissioners, under provisions of section 2571, Revised Statutes of Missouri, 1889, statement to that effect will be sufficient.

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CAPITAL STOCK.

DESCRIPTION.		Number of shares authorized.	Par value of shares.	Total par value authorized.	Total amount issued and outstanding.	Dividends Declared During Year. Rate.	Dividends Declared During Year. Amount.
Capital Stock:	Common.	1108391	100	110839100	110839100	7%	7758737
	Preferred.						
Total.		1108391	100	110839100	110839100	7%	7758737

Manner of Payment for Capital Stock.		No. of shares issued during year.	Cash realized on am't issued during year.	Total number of shares issued.	Total cash realized.	Remarks
Issued for cash:	Common.					
	Preferred.					
Issued for construction:	Common.	None				
	Preferred.					
Issued for reorganization:	Common.					
	Preferred.					
Issued for						
Total.						

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FUNDED DEBT.

MORTGAGE BONDS, MISCELLANEOUS OBLIGATIONS AND INCOME BONDS.

Class of Bond or Obligation.	Time. Date Issued.	Time. When Due.	Amount of Authorized Issued.	Amount Issued.	Amount Outstanding.	Cash Realized on Amount Issued.	Interest. Rate.	Interest. When Payable.	Interest. Amount Accrued During Year.	Interest. Amount Paid During Year.
C.B.&Q. Consol.	1879	1919	3,000,000	3,000,000	2,329,000		5	A.&O.	116,625.00	119,400.00
" " "	"	"	12,502,000	12,502,000	7,712,000		4	A.&O.	313,580.00	315,280.00
" 4% D. 1922	1881	1921	4,300,000	4,300,000	4,300,000		4	M.&S.	172,000.00	172,000.00
" Denver Extn.	1882	1922	7,968,000	7,968,000	7,968,000		4	J.&J.	318,720.00	323,720.00
" Plains	1883	1913	9,000,000	9,000,000	9,000,000		5	M.&N.	450,000.00	450,000.00
" Neb. Extn.	1887	1927	29,441,000	29,441,000	24,791,000		4	M.&N.	1,001,502.20	1,052,840.00
" Ill. Division	1889	1949	50,835,000	50,835,000	50,135,000		3½	J.&J.	1,779,225.00	1,779,225.00
" " "	"	"	34,165,000	34,165,000	34,165,000		4	J.&J.	1,203,206.33	1,263,206.33
B.&M. Neb. Consol. Mtge.	1878	1918	13,650,000	13,650,000	13,650,000		6	J.&J.	818,460.00	818,460.00
" " 4% D. 1946	1888	1910	3,347,000	3,347,000	3,347,000		4	J.&J.	133,880.00	133,880.00
Repl. Valley RR.	1879	1918	2,643,000	2,643,000	1,078,000		6	J.&J.	64,680.00	64,680.00
W.&St.L. Consol. Mtge.	1881	1911	8,000,000	8,000,000	8,000,000		6	M.&S.	480,000.00	480,000.00
K.C.St.J.&C.B.R.R.	1877	1987	5,000,000	5,000,000	5,000,000		7	J.&J.	350,000.00	350,000.00
Tarkio Valley RR.	1880	1920	430,000	430,000	144,000		7	J.&J.	10,078.83	10,850.00
Nodaway " "	"	"	388,000	388,000	128,000		7	J.&J.	9,601.67	9,660.00
Contingent Liabilities for Branch Roads										
Atch. & Neb. RR.	1878	1908	1,125,000	1,125,000	1,125,000		7	M.&S.	78,750.00	78,750.00
Lin. & N. Western	1880	1910	600,000	600,000	600,000		7	J.&J.	42,000.00	42,000.00
Grand Total.			186,394,000	186,394,000	174,172,000				7,345,053.53	7,389,513.33

RECAPITULATION OF FUNDED DEBT.

CLASS OF DEBT.	Amount Issued.	Amount Outstanding.	INTEREST. Amount Accrued During Year.	INTEREST. Amount Paid During Year.
Mortgage Bonds,	168022000 00	155800000 00	6468423 53	6477321 33
Miscellaneous Obligations	18372000 00	18372000 00	876630 00	876630 00
Income Bonds,				
Total,	186394000 00	174172000 00	7345053 53	7353951 33

RECEIVER'S CERTIFICATES.

Date Issued.	Amount Issued.	Amount Outstanding.	PRINCIPAL. Amount Paid During Year.	PRINCIPAL. Amount Funded or Otherwise Disposed of.	INTEREST. Amount Accrued During Year.	INTEREST. Amount Paid During Year.	Rate.
Total,							

CURRENT ASSETS AND LIABILITIES.

Cash and Current Assets Available for Payment of Current Liabilities.		Current Liabilities Accrued to and Including June 30, 190....	
Cash,		Receiver's Certificates,	
Bills Receivable,	790815 60	Loans and Bills Payable,	
Due from Agents,		Audited Vouchers and Accounts,	
Net Traffic Balances due from other Companies,		Wages and Salaries,	
Due from Solvent Companies and Individuals,	81326	Net Traffic Balances due to other Companies,	
Other Cash Assets (excluding "Materials and Supplies") *		Dividends not called for,	109775
		Matured Interest Coupons unpaid (including coupons due)	
		Rentals due,	
		Miscellaneous,	
Balance—Current Liabilities,		Balance—Cash Assets,	790531 11
Total,	791628 86	Total,	791628 86
*Materials and Supplies on hand, $.....		[See General Balance Sheet.]	

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RECAPITULATION.

A. FOR MILEAGE OWNED BY ROAD MAKING THIS REPORT.

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ACCOUNT.	Total Amount Outstanding.	APPORTIONMENT.		AMOUNT PER MILE OF ROAD.		Remarks.
		To Railroads.	To other Properties.	Miles.	Amount.	
Capital Stock,	11083910.0	11083910.0		847393	13080	
Bonds—["Grand Total"],	17417200.00	17417200.00		847393	20554	
Equipments Trust Obligations.						
Total,	285011100	285011100		847393	33634	

B. FOR MILEAGE OPERATED BY ROAD MAKING THIS REPORT (TRACKAGE RIGHTS EXCLUDED), THE OPERATIONS OF WHICH ARE INCLUDED IN THE INCOME ACCOUNT.

NAME OF ROAD.	Capital Stock.	Funded Debt.	Current Liabilities.	Total.	Amount per Mile of Road.	
					Miles.	Amount.
Total carried forward,						

COST OF ROAD, EQUIPMENT AND PERMANENT IMPROVEMENTS.

ITEM.	EXPENDITURES DURING YEAR. Included in Operating Expenses.	Not Included in Operating Expenses. Charged to Income Account as Permanent Improvement.	Not Included in Operating Expenses. Charged to Construction of Equipment.	Total Cost to June 30, 190....	Cost per Mile.
CONSTRUCTION:					
Right of way, & Station Grounds			1094021 21		
~~Other~~ real estate,			25102 84		
Fencing & Right of Way			33020 76		
Grading ~~and bridge and culvert masonry,~~			1784330 88		
Bridges ~~and~~ trestles, & culverts			761796 33		
Rails,			738060 65		
Ties,			507082 04		
Frogs & switches			55246 85		
~~Other expenditures,~~ Track Fastenings			165300 34		
Ballast			132948 50		
Station Buildings, furniture and fixtures.			91695 02		
Track laying & surfacing.			441482 70		
Shop machinery and tools,			16619 49		
Crossings cattle guards & signs.			28381 03		
Engineering ~~expenses,~~			79348 21		
Interlocking & signal apparatus			41978 14		
~~Interest during construction,~~ Fuel Stations			37914 46		
Shops Roundhouses & turntables			77761 17		
~~Discount on securities sold for construction~~ Water Stations			106396 04		
Docks & wharves			304 06		
Telegraph lines,			49676 69		
Train Elevators.			114536 68		
~~Wharfing, etc.~~ Storage warehouses			5035 36		
Electric Light Plants			14 80		
~~Sidings and yard extensions,~~ Electric Motive Power Plants.			748 30		
Miscellaneous Structures			7240 55		
~~Terminal facilities and elevators,~~ Legal Expenses.			1651 80		
~~Road built by contract,~~ Interest & Discounts.			2950 00		
Purchase of constructed road,			3771 37		
~~Other items,~~ General Expenses			34399 57		
Total construction,			6428715 92		
EQUIPMENT:					
Locomotives,			1782386 87		
Passenger cars,			758 31		
Sleeping, parlor and dining cars,			38790 47		
Baggage, express and postal cars,			6202 07		
Combination cars,			417 90		
Freight cars,			1489701 88		
Other cars of all classes,			137540 36		
Floating equipment,					
Total equipment,			3386050 10		
Grand total cost construction, equipment, etc.,			9814766 02	337663240 52	39847 30
Total cost construction, equipment, etc.— State of Missouri,					

Cannot give Details as Records were destroyed in Chicago Fire of 1871

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INCOME ACCOUNT.

FOR ROADS NOT MAKING OPERATING REPORTS.

Income from lease of road,		18083622246
Dividends on stocks owned,		
Interest on bonds owned,		
Miscellaneous income—less expenses,		
Income from other sources,		
Total income,		
Deficit,		
DEDUCTIONS FROM INCOME:		
Salaries and Maintenance of organization,		
Interest on funded debt accrued,	73450535 3	
Interest on interest-bearing current liabilities accrued, not otherwise provided for,		
Rents,		
Taxes,	2018 49416	
Permanent improvements.		
Other deductions,	452 43997	
Total deductions from income,		10315987166
Net income,		7769634 80
Deficit,		
Dividends, 1 per cent, common stock,		7758737
Dividends, per cent, preferred stock		
Other payments from net income.		
Total,		
Surplus from operations of year ending June 30, 1906.		8897 80
Deficit from operations of year ending June 30, 190 ,		
Surplus on June 30, 190 [from "General Balance Sheet," 1905. Report],		20326557 36
Deficit on June 30, 190 [from "General Balance Sheet," 190 , Report],		
Additions for year,		
Deductions for year.		
Surplus on June 30, 190 6 [for entry on "General Balance Sheet," 1906. Report],		20335455 16
Deficit on June 30, 190 [for entry on "General Balance Sheet," 190 , Report],		

See explanation on Page 7

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The surplus of $8897.80 is explained by the fact that in the Deductions from Income we have used the "Interest accrued" as called for in the report while the Income from Lease of Road is based upon the interest paid & other charges. The interest paid was $8897.80 greater than the interest accrued.

NAME.	Total Par Value.	Rate.	Income or Dividend Received.	Valuation.
Atchison Union Depot Co.	27000		Income is	27000
Hannibal " "	23400		appreciated	23000
Kansas City " "	90000		by C. B. & Q.	90000
Spokane " "	40000		Ry Co. under	8024
St. Joseph " "	4000		terms of lease	133251 2
St. Paul " "	100000		See Reports	00000
Chicago Grain Transfer Ry Co.	80000		that Company.	40000
Iowa Transfer " "	6000			6000
Minnesota " "	7000			7000
Burlington Elevator Co. (Peoria)	15000			15000
Total.	392400			329749 12

1386

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BONDS OWNED.

NAME.	Total Par Value.	Rate.	Income or Dividend Received.	Valuation.
Atchison Union Depot Co.	4500		Interest up	4500
Minnesota Transfer Ry Co.	26000		received by	26000
Tabor + Northern R.R. Co.	50000		C.B. & Q. Ry	41643
Winona Bridge Ry. Co.	259000		Co. under	20050
Peoria + Pekin Union Ry. Co.	41000		terms of the	41000
B + No. R.R. in Nebr. 6s	217600		lease. Dec	217600
" " 4s	12000		the Report	12000
Nodaway Valley R.R. 7s 1920	2000		of that	2000
Tarkio Valley " 7s 1920	73000		Company	73000
C.B. + Q. Ill. Div. 4s 1949	107000			107000
Republican Valley R.R. 6s 1919	150800			150800
C.B. + Q. Nebr. Extn. 4s 1927	31000			31000
Burlington Elevator Co. (Peoria)	5000			5000
Town of Akron Colo.	12500			12500
Wapello Coal Co.	405000			405000
Total.	1396400			1930093

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COMPARATIVE GENERAL BALANCE SHEET.

JUNE 30, 190.... Item.	JUNE 30, 190.... Total.	ASSETS.	JUNE 30, 190.. Item.	JUNE 30, 190.. Total.	YEAR ENDING JUNE 30, 190.... Increase.	YEAR ENDING JUNE 30, 190.... Decrease.
		Cost of road,				
		Cost of equipment,	337663240 52			
		Stocks of other companies owned,	32974912			
		Bonds of other companies owned,	1330093			
		Other permanent investments,	11454 14438			
		Lands owned,	1176 9258 1			
		Cash and current assets,	791 62886			
		OTHER ASSETS:				
		Materials and supplies,				
		Sinking fund,	16276 24264			
		Sundries,				
		Profits and Loss,				
		Grand total,	869 022 02433			

COMPARATIVE GENERAL BALANCE SHEET.

JUNE 30, 190.... Item.	JUNE 30, 190.... Total.	LIABILITIES.	JUNE 30, 190.... Item.	JUNE 30, 190.... Total.	YEAR ENDING JUNE 30, 190.... Increase.	YEAR ENDING JUNE 30, 190.... Decrease.
		Capital Stock,	110 539 100			
		Funded Debt,	174 172 000			
		Current Liabilities,	1 097 15			
		Accrued Interest on Funded Debt not yet payable,				
		Current Accounts (P. 32)	2 10 000 000			
		Sinking Funds	26 057 339 13			
		Income Account (P. 32)	20 335 455 16			
		Due C.B.&Q. Ry. Co.	13 305 995 87			
		Profits and Loss,	14 318 675 47			
		Grand total,	369 022 024 83			

See Explanatory Note Page 7

Here present statements as follows: 1.—All Extensions of Road put in Operation. 2.—Decrease in Mileage by Line Abandoned or Line Straightened. 3.—All Important Physical Changes (other than those above referred to). 4.—All Leases Taken or Surrendered. 5.—All Consolidations or Reorganizations effected. 6.—All new Stocks Issued. 7.—All new Bonds Issued. 8.—All Important Financial Changes (other than those above referred to).

1 None
2 None
3 None
4 None
5 None
6 None
7 None
8 None

1390

3034

DESCRIPTION OF EQUIPMENT.

ITEM.	No. Added During Year.	Total No. at End of Year.	Equipped with Train Brake.		Equipment Fitted with Automatic Coupler.	
			Number.	Kind.	Number.	Kind.
LOCOMOTIVES:						
Passenger,						
Freight,						
Switching,						
Leased,						
Total Locomotives,						
CARS IN PASSENGER SERVICE:						
First-class Passenger Cars,						
Second-class Passenger Cars,						
Combination Passenger Cars.						
Emigrant Cars,						
Parlor Cars,						
Dining Cars,						
Sleeping Cars,						
Baggage, Express and Postal Cars,						
Other Cars in Passenger Service,						
Total,						
CARS IN FREIGHT SERVICE:						
Box Cars,						
Flat Cars,						
Stock Cars,						
Coal Cars,						
Tank Cars,						
Refrigerator Cars,						
Other Cars.						
, Total,						
CARS IN COMPANY'S SERVICE:						
Gravel Cars,						
Derrick Cars,						
Caboose Cars,						
Other Road Cars,						
Total,						
CARS CONTRIBUTED TO FAST FREIGHT LINE SERVICE:						
Total Cars Owned,						
CARS LEASED:						
Grand Total Cars,						

3035

1891

The equipment of this Company is leased to the C. B. & Q. Railway Co. and is included on page 32 in report of that Company.

MILEAGE.

A. MILEAGE OF ROAD OPERATI

LINE IN USE.	Line Represented by Capital Stock.		Line of proprietary companies.	Line operated under lease.	Line operated under contract, etc.	Line operated under trackage rights.	Total mileage operated.	New line constructed during year.	Rails.	
	Main line.	Branches and spurs.							Iron.	Steel.
Miles of single track, main line,										
Miles of second track, main line,										
Miles of third track, main line,										
Miles of fourth track, main line,										
Miles of yard track and sidings,										
Total mileage operated (all tracks),										

B. MILEAGE OF LINE BY STATES AND TERRITORIES.

I. Mileage Operated by Road Making This Report.

STATE OR TERRITORY.	Line Represented by Capital Stock.		Line of proprietary companies.	Line operated under Lease.	Line operated under contract, etc.	New line constructed during year.	Total mileage excluding trackage rights.	Line operated under trackage rights.	Rails.	
	Main Line.	Branches and spurs.							Iron.	Steel.
Total mileage operated (single track),										

II. Mileage Owned by Road Making This Report.

~~Illinois~~	55625	1,28210				5230	1,63842	3869	2372	161470
Iowa	27955	1,39110					1,36565	7105	2739	133826
Wisconsin		22259					22257	53		22257
Minnesota		2361					2361	1484		2361
Missouri		113263					113263	424		113263
Kansas		25962					25962	82		25962
Nebraska	19161	241962					261123	2028	1861	259262
So. Dakota		27816					27816			27816
Montana		18728					18728	1262		18728
~~Wyoming~~		36038				885	36038	3497		36038
~~Colorado~~		39438					39438			39438
Total mileage owned (single track),	82241	765152				6115	847393	20309	6972	84042

MILEAGE OWNED AND OPERATED UNDER LEASE IN MISSOURI.

Miles of single track in Missouri owned,	113263	Miles of single track in Missouri operated under lease,
Miles of second track in Missouri,	5023	Miles of second track in Missouri operated under lease,
Miles of third track in Missouri,		Miles of yard track in Missouri operated under lease,
Miles of yard track in Missouri,		Miles of sidings track in Missouri operated under lease,
Miles of sidings in Missouri,	37329	
Total—all tracks in Missouri owned,	55615	

CHARACTERISTICS OF ROAD—STATE OF MISSOURI.

WORKING DIVISIONS OR BRANCHES.			ALIGNMENT.			PROFILE.							
							Ascending Grades.			Descending Grades.			
From	To	Miles.	Number of Curves.	Aggregate Length of Curved Line. Miles.	Length of Straight Line. Miles.	Length of Level Line. Miles.	Number.	Sum of Ascents Feet.	Aggregate Length Ascend'g Grades Miles	Number	Sum of Descents Feet.	Aggregate Length of Descending Grades Miles.
TOTAL,												

Impossible to give this information as old records are incomplete through destruction by Fire.

DESCRIPTION OF ROAD—IN MISSOURI.

OWNED OR LEASED AT CLOSE OF YEAR ENDING JUNE 30, 190....

Miles of steel rail in main track on lines owned or leased in Missouri at close of year, [Weight per yard Various]	113263
Miles of stone ballast on same at close of year,	23363
Miles of stone ballast on same laid during year,	1187
Miles of gravel or cinder ballast on same at close of year,	29747
Miles of gravel or cinder ballast on same laid during year,	1747
Miles of burnt clay ballast on same at close of year,	23695
Miles of burnt clay ballast on same laid during year,	
Number of iron bridges on same (total length 25346 16") at close of year,	195
Number of iron bridges on same (total length) built during year,	
Number of combination bridges on same (total length) at close of year,	
Number of combination bridges on same (total length) built during year,	
Number of wooden bridges on same (total length 3514 6") at close of year,	29
Number of wooden bridges on same (total length) built during year,	
Number of iron trestles on same (total length)at close of year,	
Number of iron trestles on same (total length) built during year,	
Number of wooden trestles on same (total length 79742') at close of year,	1268
Number of wooden trestles on same (total length) built during year.	
Miles of wire fence on same at close of year,	198198
Miles of wire fence on same built during year,	
Miles of wooden fence on same at close of year,	1647
Miles of wooden fence on same built during year,	
Average number of men in section gangs, including foreman,	5
Average number of miles of road to each gang,	622
Number of crossings of highways at grade,	1077
Number of crossings of highways over railroad,	43
Number of crossings of highways under railroad,	45
Number of crossings at which gates or flagmen are maintained,	14
Number of railroad crossings at grade,	32
Number of railroad crossings over or under grade,	10
Number of stations in Missouri, including flag stations,	232
Number of station houses in Missouri,	182
Number of tunnels in Missouri,	None
Length of tunnels in Missouri,	"
Gauge of tracks in Missouri,	4' 8½"

1394

3038

ALL LINES NOT REPORTED BY OTHER COMPANIES.

NAME.	TERMINALS.		Miles of line for each road named.	
	From	To		
See Railroad Company Report				
		Total mileage,		

3039

1893

(Operating Report) Ex. 33

ANNUAL STATEMENT

OF THE

Chicago Burlington & Quincy Railway Company

TO THE

RAILROAD AND WAREHOUSE COMMISSIONERS

OF THE

STATE OF MISSOURI

FOR THE YEAR ENDING JUNE 30, 1906

THE HUGH STEPHENS PRINTING COMPANY,
JEFFERSON CITY, MO.

1396
3040

STATE OF MISSOURI,

Office of the Railroad and Warehouse Commissioners,

CITY OF JEFFERSON.

The attention of officers of companies owning or operating railroads in this State is especially called to SECTION 1070, Revised Statutes of Missouri, 1899, relating to annual statements by railroad companies, as follows:

SECTION 1070. The directors of every railroad company or corporation which is now or hereafter may be organized under the laws of this state shall hold a meeting on the second Tuesday in March of each year, for the transaction of such business as may properly come before them, at their office or place of business which shall have been established in this state—30 days' notice having been given by publication in two or more newspapers having the greatest circulation in the county or city in which the office of such railroad company or corporation shall be situated. The general manager or other chief officer of every such company or corporation, and the manager or other chief officer of every railroad company or corporation organized under the laws of another state, and owning, leasing, operating or controlling a railroad within this state, shall, on or before the first day of September of each year, transmit to the office of the railroad and warehouse commissioners of this state a statement in detail of the affairs of such company or corporation as the same existed on the 30th day of June first preceding, and of the business operation of such company or corporation for the year ending the 30th day of June as aforesaid. Said statement must be certified to under the oath of the proper officer of said company or corporation, and must be made out upon printed forms, furnished by the railroad and warehouse commissioners, which printed forms shall contain all interrogatories necessary to obtain a full statement, in detail of the organization, condition, business affairs and operations of such railroad company or corporation for the year ending the 30th day of June as aforesaid. The railroad and warehouse commissioners shall, on or before the 31st day of December of each year, transmit to the governor of this state a report of their official acts for the year ending on the 30th day of June as aforesaid; and the said report shall also contain a condensation of statistics, tabulated from the returns of the several railroad companies, together with all such information and recommendations concerning the regulation of the railroads of this state as the said commissioners may deem to be of public interest and importance.

The Commissioners expect a prompt compliance with the foregoing, and urge upon the proper officers of the several railroad companies the importance of filing their annual statements as nearly as possible in accordance with date required by law. Failure to file the statements promptly necessitates delay in the preparation and publishing of the annual reports of this Board. It is very important that the reports be ready for publication in December of each year.

3040 R

1397

1. Name of common carrier making this report?

The Chicago Burlington & Quincy Railroad Co.

2. Date of organization

Oct. 17, 1901

3. Under the laws of what Government, State or Territory organized? If more than one, name all; give reference to each statute and all amendments thereof.

Iowa

4. If a consolidated company, name the constituent companies. Give reference to charters of each and all amendments of same.

Not Consolidated Company.

1398

3040½

5. Date and authority for each consolidation.

None

6. If a reorganized company, give name of original corporation, and refer to laws under which it was organized.

Not reorganized.

7. [For companies not making operating reports.] What carrier operates the road of this company?

NAMES OF DIRECTORS.	POSTOFFICE ADDRESS.	DATE OF EXPIRATION OF TERM.
Geo. B. Clarke.	New York City.	November 7th 1906
Wm. P. Clough	New York City.	" " "
Amos T. French	New York City.	" " "
Geo. B. Harris.	Chicago, Ill.	" " "
James N. Hill.	St. Paul, Minn.	" " "
James J. Hill.	St. Paul, Minn.	" " "
Jno. S. Kennedy.	New York City.	" " "
Darius Miller.	Chicago, Ill.	" " "
Chas. E. Perkins.	Burlington, Iowa.	" " "
Geo. W. Perkins	New York City.	" " "
Samuel Thorne	New York City.	" " "

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Total number of stockholders at date of last election, 12

Date of last meeting of stockholders for election of directors, November 1st. 1905

Give postoffice address of general office, 209 Adams St. Chicago, Ill.

Give postoffice address of operating office, 209. Adams St. Chicago, Ill.

1399

TITLE.	NAME	LOCATION OF OFFICE.
President	Geo.B.Harris	Chicago, Ill.
Assistant to president	W.W.Baldwin	Burlington, Ia.
1st Vice President	D.Miller	Chicago
2nd Vice President	D.Willard	"
Secretary	T.S.Howland	"
Treasurer	T.S.Howland	"
General Counsel	J.W.Blythe	Burlington, Ia.
General Solicitor	C.M.Dawes	Chicago
" "	C.F.Manderson	Omaha, Neb.
" "	O.M.Spencer	St.Joseph, Mo.
General Auditor	C. I.Sturgis	Chicago,
Assistant General Auditor	Geo.B Dunbar	"
Auditor	W.P.Durkee	Omaha, Neb.
General Manager	J.M.Gruber	Chicago
" "	G.W.Holdredge	Omaha, Neb.
Chief Engineer	T.E.Calvert	Chicago
General Superintendent	H.D.Fudson	"
" "	W.B.Throop	Burlington, Ia.
" "	G.T.Ross	St.Louis, Mo.
" "	H.E.Byram	Lincoln, Neb.
" "	J.R.Phelan	Alliance, Neb.
Supt.of Telegraph	W.W.Ryder	Chicago
Frt.Traffic Manager	G.H.Crosby	"
General Freight Agent	W.B.Hamblin	"
" " "	W.Gray	St.Louis, Mo.
" " "	C.E.Spens	Omaha, Neb.
Asst.Gen. " "	E.R.Puffer	Chicago,
" " " "	Geo.Morton	"
" " " "	G.P.Lyman	St.Paul, Minn.
" " " "	A.L.West	St.Joseph, Mo.
" " " "	A.B.Smith	Omaha, Neb.
" " " "	F.Montmorency	"
" " " "	W.W.Johnson	"
" " " "	W.A.Holley	Chicago
Passenger Traffic Manager	P.S.Eustis	"
General Passenger Agent	Jno.Francis	"
" " "	L.W.Wakeley	Omaha, Neb.
Asst.Gen. " "	F.E.Bell	Chicago
" " " "	W.A.Lalor	St.Louis, Mo.
" " " "	J.E.Buckingham	Omaha, Neb.
General Baggage Agent	John DeWitt	Chicago.

1400

3042

INCOME ACCOUNT.

FOR ROADS MAKING OPERATING REPORTS

Gross earnings from operation,	73413385 88	
Less operating expenses,	50655161 43	
Income from operation,		22758224 45
Deficit,		
Dividends on stocks owned,	5400	
Interest on bonds owned,	796102 22	
Miscellaneous income—less expenses,	325672 32	
Income from other sources,		4106825 4
Total income,		
Deficit,		23168906 99
DEDUCTIONS FROM INCOME:		
Interest on funded debt accrued,		
Interest on interest-bearing current liabilities accrued, not otherwise provided for,		
Rents, Paid for lease of road		1808362 24 6
Taxes,		
Permanent improvements,		
Other deductions,		
Total deductions from income,		
Net income,		5085284 53
Deficit,		
Dividends, per cent, common stock,		
Dividends, per cent, preferred stock,		
Other payments from net income,		
Total,		
Surplus from operations of year ending June 30, 190 ,		
Deficit from operations of year ending June 30, 190 ,		
Surplus on June 30, 190 [~~from "General Balance Sheet," 190 , Report~~],		16237896 05
Deficit on June 30, 190 [from "General Balance Sheet," 190 , Report].		
Additions for year,		
Deductions for year,		
Surplus on June 30, 1906 [for entry on "General Balance Sheet," 190 , Report],		21822979 68
Deficit on June 30, 1906 [for entry on "General Balance Sheet," 190, Report],		

3043

1401

See Explanation Page 7

ITEMS.	Total Receipts.	Deductions account of repayments, etc.	Actual Earnings.
PASSENGER:			
Passenger revenue,			
Less repayments,			
Tickets redeemed,			
Excess fares refunded,			
Other repayments,			
Total deductions,			
Total passenger revenue,			16211665 44
Mail,			2319 00 00 01
Express,			1440 39 2 60
Extra baggage and storage,			245 71 3 39
Other items,			241 56 9 67
Total passenger earnings			20458841 11
FREIGHT:			
Freight revenue,			
Less repayments,			
Overcharges to shippers,			
Other payments,			
Total deductions,			
Total freight revenue,			50714275 74
Stock yards,			784986 2
Elevators,			
Other items,			
Total freight earnings,			5079277436
Total passenger and freight earnings,			71251153 47
OTHER EARNINGS FROM OPERATION:			
Car mileage, balance,			
Switch charges, ~~balance~~,			9705397 2
Telegraph companies, Earnings			1808047 6
Rents from tracks, yards and terminals,			6818089
Rentals not otherwise provided for,			
Other sources,			3291170 4
Total other earnings,			21622704 1
Total gross earnings from operation, whole line,			73413385 88

1402

3044

ITEMS.	Total Receipts.	Deductions account of repayments, etc.	Actual Earnings.
PASSENGER:			
Passenger revenue,			
Less repayments,			
Tickets redeemed,			
Excess fares refunded,			
Other repayments,			
Total deductions,			
Total passenger revenue,			
Mail,			
Express,			
Extra baggage and storage,			
Other items,			
Total passenger earnings,			
FREIGHT:			
Freight revenue,			
Less repayments,			
Overcharges to shippers,			
Other repayments,			
Total deductions,			
Total freight revenue,			
Stock yards,			
Elevators,			
Other items,			
Total freight earnings,			
Total passenger and freight earnings,			
OTHER EARNINGS FROM OPERATION:			
Car mileage, balance,			
Switch charges, balance,			
Telegraph companies,			
Rents from tracks, yards and terminals,			
Rentals not otherwise provided for,			
Other sources,			
Total other earnings,			
Total gross earnings from operation, Missouri,			
Total gross earnings from operation, whole line,			

3045

1403

ITEM.	Total
MAINTENANCE OF WAY AND STRUCTURES:	
1. Repairs of Roadway,	5,187,798.21
2. Renewals of Rails,	904,734.50
3. Renewals of Ties,	1,364,303.69
4. Repairs of Bridges and Culverts,	1,648,122.94
5. Repairs of Fences, Road-Crossings, Signs and Cattle Guards,	205,905.24
6. Repairs of Buildings,	1,163,021.60
7. Repairs of Docks and Wharves,	46,265.81
8. Repairs of Telegraph,	230,228.19
9. Other Expenses,	~ ~
Total,	10,608,740.18
MAINTENANCE OF EQUIPMENT:	
10. Repairs and renewals of Locomotives,	5,113,800.83
11. Repairs and renewals of Passenger Cars,	839,504.96
12. Repairs and renewals of Freight Cars,	7,058,369.74
13. Repairs and renewals of ~~Ferry Boats, Tugs, Floats and Barges,~~ Work Cars	134,075.51
14. Shop Machinery, Tools, etc.,	415,313.11
15. Other Expenses,	96,328.19
Superintendence	281,580.47
Total.	13,938,972.81
CONDUCTING TRANSPORTATION:	
16. Wages of Enginemen, Firemen and Round-House-Men,	4,059,901.94
17. Fuel of Locomotives,	5,149,477.00
18. Water Supplies for Locomotives,	272,776.46
19. All other supplies for Locomotives,	183,855.81
20. Wages of other Trainmen,	2,519,400.52
21. All other Train Supplies,	708,306.55
22. Wages of Switchmen, Flagmen and Watchmen,	1,701,256.65
23. Expense of telegraph, including Train Dispatchers and Operators,	903,958.07
24. Wages of Station Agents, Clerks and Laborers,	2,760,861.47
25. Station Supplies,	298,548.01
26. Switching Charges—Balance,	657,804.72
27. Car Mileage—Balance,	609,025.14
28. Loss and Damage,	656,646.81
29. Injuries to persons,	339,334.42
Hire of Equipment Balance	47,768.79
~~30. Barges, Floats, Tugs, Ferry Boats, expenses of, including Wages, Fuel and supplies.~~	
31. Other Expenses,	14,475.22
Other supplies for locomotives	112,239.24
Superintendence	1,070,267.70
Clearing wrecks	1,179,381.81
Total,	22,088,306.75

1404

3046

ITEM.	Total.
GENERAL EXPENSES:	
32. Salary of Officers,	4040827
33. Salaries of Clerks,	19768085
34. General Office Expenses and Supplies,	9378211
35. ~~Agencies, including Stables and Rent.~~ Outside Agencies	60349091
36. Advertising,	21817700
37. Commissions,	
38. Insurance,	2467389
39. Expense of Fast Freight Lines,	
40. Expense of Traffic Association,	
41. Expenses of Stock Yards and Elevators,	
42. Rents for Tracks, Yards and Terminals,	111462818
43. Rents not otherwise provided for,	
44. Legal Expenses,	2087399
45. Stationery and Printing,	3101033
46. Other General Expenses,	1218139
Total,	401914269
RECAPITULATION OF EXPENSES:	
47. Maintenance of Way and Structure	1060874018
48. Maintenance of Equipment,	13938972 81
49. Conducting Transportation,	22088305 75
50. General Expenses,	401914269
Grand Total,	5065516143
Percentage of Expenses to Earnings—Entire Line,	6900
OPERATING EXPENSES—STATE OF MISSOURI:	
Maintenance of Way and Structure,	
Maintenance of Equipment,	
Conducting Transportation,	
General Expenses,	
Total,	
Percentage of Expenses to Earnings—Missouri,	
Taxes paid in Missouri,	19797815
State,	
County, Municipal and School,	

3047

1405

1406

OMPARATIVE GENERAL BALANCE SHEET.

JUNE 30, 1905.		ASSETS.	JUNE 30, 1906.		YEAR ENDING JUNE 30, 1906.	
Item.	Total.		Item.	Total.	Increase.	Decrease.
		Cost of road,	10204907			
		Cost of equipment,				
		Stocks of other companies owned,				
		Bonds of other companies owned,				
		Other permanent investments,				
		Lands owned,				
		Cash and current assets,	18114018 69			
		OTHER ASSETS:				
		Materials and supplies,	498445 36			
		Sinking fund,				
		Sundries,				
		Due from C.B.&Q.R.R.Co	13305995 87			
		Profits and Loss,				
		Grand total,	36506514 99			

See Explanation Page 7

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COMPARATIVE GENERAL BALANCE SHEET.

JUNE 30, 1905..		LIABILITIES.	JUNE 30, 1906..		YEAR ENDING JUNE 30, 1906.	
Item.	Total.		Item.	Total.	Increase.	Decrease.
		Capital Stock,	10000			
		Funded Debt,				
		Current Liabilities,	871120223			
		Accrued Interest on Funded Debt not yet payable,				
		Current Accts Bal.	6446104 76			
		Income Acct	2132297958			
		Profits and Loss,	1622542			
		Grand total.	3650651499			

ITEM.	Column for Tonnage, No. Passengers, No. Trains, Mileage, No. Cars.	Columns for Revenue and Rates.				
		Dollars.			Cts.	M.
PASSENGER TRAFFIC:						
Number of passengers carried earning revenue,						
Number of passengers carried one mile,						
Average distance carried,						
Total passenger revenue,						
Average amount received from each passenger,						
Average receipts per passenger per mile,						
Estimated cost of carrying each passenger one mile,						
Total passenger earnings,						
Passenger earnings per mile of road,						
Passenger earnings per train mile,						
FREIGHT TRAFFIC:						
Number of tons carried of freight earning revenue,						
Number of tons carried one mile,						
Average distance hauled of one ton,						
Total freight revenue,						
Average amount received for each ton of freight,						
Average receipts per ton per mile,						
Estimated cost of carrying one ton one mile,						
Total freight earnings,						
Freight earnings per mile of road,						
Freight earnings per train mile,						
PASSENGER AND FREIGHT:						
Passenger and freight revenue,						
Passenger and freight revenue per mile of road,						
Passenger and freight earnings,						
Passenger and freight earnings per mile of road,						
Gross earnings from operation,						
Gross earnings from operation per mile of road,						
Expenses,						
Expenses per mile of road,						
TRAIN MILEAGE:						
Miles run by passenger trains,						
Miles run by freight trains,						
Miles run by mixed trains,						
Total mileage trains earning revenue,						
Miles run by switching trains,						
Miles run by construction and other trains,						
Grand total train mileage,						
Mileage of loaded freight cars—North or East,						
Mileage of loaded freight cars—South or West,						
Mileage of empty freight cars—North or East,						
Mileage of empty freight cars—South or West,						
Average number of freight cars in train,						
Average number of loaded cars in train,						
Average number of empty cars in train,						
Average number of tons of freight in train,						
Average number of tons of freight in each loaded car,						

1108

3050

1409

ITEM.	Column for Tonnage, No. Passengers, No. Trains, Mileage, No. Cars.	Columns for Revenue and Rates. Dollars.	Cts.	M.
PASSENGER TRAFFIC:				
Number of passengers carried earning revenue.	151796 34			
Number of passengers carried one mile	79417188			
Average distance carried.	5231			
Total passenger revenue.		16211 665	44	
Average amount received from each passenger.			106	799
Average receipts per passenger per mile.			02	041
Estimated cost of carrying each passenger one mile.				
Total passenger earnings.		20458341	11	
Passenger earnings per mile of road.		23765	7	
Passenger earnings per train mile.			1 30	533
FREIGHT TRAFFIC:				
Number of tons carried of freight earning revenue.	23217160			
Number of tons carried one mile.	6303883569			
Average distance hauled of one ton.	2715 2			
Total freight revenue.		50714276	74	
Average amount received for each ton of freight.			2 18	434
Average receipts per ton per mile.			00	804
Estimated cost of carrying one ton one mile.				
Total freight earnings.		50792774	36	
Freight earnings per mile of road.		5700	47	
Freight earnings per train mile.			2 98	481
PASSENGER AND FREIGHT:				
Passenger and freight revenue.		66926941	18	
Passenger and freight revenue per mile of road.		7774	62	
Passenger and freight earnings.		71251110	17	
Passenger and freight earnings per mile of road.		8277	06	
Gross earnings from operation.		73413385	88	
Gross earnings from operation per mile of road.		8528	25	
Expenses.		50655161	43	
Expenses per mile of road.		5884	48	
TRAIN MILEAGE:				
Miles run by passenger trains.	14395262			
Miles run by freight trains.	15742307			
Miles run by mixed trains.	1277655			
Total mileage trains earning revenue.	31415224			
Miles run by switching trains.				
Miles run by construction and other trains.	106770			
Grand total train mileage.	31522194			
Mileage of loaded freight cars—North or East.				
Mileage of loaded freight cars—South or West.	38137238			
Mileage of empty freight cars—North or East.				
Mileage of empty freight cars—South or West.	17068845 1			
Average number of freight cars in train.	3244			
Average number of loaded cars in train.	2241			
Average number of empty cars in train.	1003			
Average number of tons of freight in train.	37038			
Average number of tons of freight in each loaded car.	1653			

3051

1410 MILEAGE.

A. MILEAGE OF ROAD OPERATED.

LINE IN USE.	Line Represented by Capital Stock.		Line of proprietary companies.	Line operated under lease.	Line operated under contract, etc.	Line operated under trackage rights.	Total mileage operated.	New line constructed during year.	Rails.	
	Main line.	Branches and spurs.							Iron.	Steel.
Miles of single track, main line.	82241	765152				20309	867702	6115	6977	840421
Miles of second track, main line,	45047	7523					52570			52570
Miles of third track, main line,	2353						2365			2365
Miles of fourth track, main line,										
Miles of yard track and sidings,	67864	160862					228726	9836	25047	203667
Total mileage operated (all tracks),	197507	933527				2039	1151343	15451	82021	1099013

B. MILEAGE OF LINE BY STATES AND TERRITORIES.

I. Mileage Operated by Road Making This Report.

STATE OR TERRITORY.	Line Represented by Capital Stock.		Line of proprietary companies.	Line operated under Lease.	Line operated under contract, etc.	New line constructed during year.	Total mileage excluding trackage rights.	Line operated under trackage rights.	Rails.	
	Main Line.	Branches and spurs.							Iron.	Steel.
Illinois	35625	128217				5230	163842	3869	2372	161470
Iowa	27455	109110					136066	1103	2789	133826
Wisconsin		22267					22267	83		22267
Minnesota		2361					2361	1484		2361
Missouri		113263					118263	929		113263
Kansas		25962					25962	82		25962
Nebraska	19161	241962					261923	2028	1861	259262
So. Dakota		27876					27876			27876
Wyoming		36038				585	36038			36038
Montana		18729					18729	1262		18729
Colorado		39438					39438	9497		29438
Total mileage operated (single track).	82241	765152				6116	847393	20309	6977	840421

II. Mileage Owned by Road Making This Report.

Total mileage owned (single track),										

MILEAGE OWNED AND OPERATED UNDER LEASE IN MISSOURI.

Miles of single track in Missouri owned.	113263	Miles of single track in Missouri operated under lease,	929
Miles of second track in Missouri,	5023	Miles of second track in Missouri operated under lease,	None
Miles of third track in Missouri,		Miles of yard track in Missouri operated under lease,	"
Miles of yard track in Missouri,		Miles of sidings track in Missouri operated under lease,	"
Miles of sidings in Missouri,	37329		
Total—all tracks in Missouri owned,	155615	Leased	929

ALL LINES NOT REPORTED BY OTHER COMPANIES.

NAME.	TERMINALS. From	TERMINALS. To	Miles of line for each road named.
Des Moines & Kansas City R.R.	Des Moines Ia	Cainsville Mo	11 88
Leon Mt Ayr & So Western "	Leon Ia	Grant City "	
" " " "	Bethany Jct Ia	Albany "	115 08
St Joseph & Des Moines	Albany Mo.	St Joseph "	
Grant City & Southern	Grant City Mo.	Albany Jct "	
Burlington & Mo. River R.R.	Creston Ia	Hopkins "	52 30
K.C. St. J. & C. B. "	Hopkins Mo	Amazonia "	
Hannibal & St Joseph "	Hannibal "	St Joseph "	206 52
Do	at St. Joseph Mo		2 57
Quincy & Palmyra "	West Quincy "	Palmyra Jct "	12 85
Kansas City & Cameron "	Cameron Jct. Mo.	Kansas City "	53 83
Quincy Bridge "	West Quincy	Mo. Ill. State Line	13
St. L. K. & N. W. "	Keokuk, Ia	St. Louis, Mo.	174 76
Old Monroe, Mexico "	Old Monroe, Mo.	Francis "	63 27
Iowa & St Louis Ry.	Sedan Ia.	Mercer "	46 61
Kansas City St J & C.B. R.R.	Kansas City Mo	Co. Bluffs, Ia	139 69
Do	E Leavenworth "	Stillings, Mo.	1 05
Do	Armour "	Winthrop "	3 51
Brownsville & Nodaway Valley "	Villioca, Ia	Burl. Jct "	41 28
Nodaway Valley "	Burl. Jct, Mo.	Bigelow "	
Tarkio " "	Northlora Ia	Corning "	25 44
Chicago Burlington & Kansas City R.R.	Ville "	Carrolton "	103 29
Keokuk & Western R.R.	Van Wert "	Alexandria "	69 62
St. Joseph & Nebraska R.R.	Napier, Mo	Baswell "	5 86
Atchison & Nebraska	Rulo Bridge Line		3 09
		Total mileage,	1132 63

3053

1411

3054–3055

Ex. 34.

L. M. E. Mch. 26, '07.

Statement of Valuation of Local Property Belonging to the Chicago, Burlington & Quincy Railroad Company in the State of Missouri as Assessed for the Taxes of 1906.

Audrain County	$3370.00
Buchanan "	207450.00
Caldwell "	120.00
Clark "	4500.00
Clay "	16900.00
Clinton "	2350.00
Jackson "	11780.00
Lincoln "	2300.00
Linn "	14670.00
Livingston County	4000.00
Macon "	200.00
Marion "	63250.00
Monroe "	1000.00
Montgomery "	250.00
St. Charles "	9800.00
Worth "	2600.00
St. Louis City	205900.00
Total	$530440.00

STATE OF MISSOURI,
Office of State Auditor:

I, Wm. W. Wilder, State Auditor, do hereby certify that the foregoing is a true and correct statement of the valuation of the property in the State of Missouri owned, used or leased by the Chicago, Burlington & Quincy Railroad Company as assessed by the local assessors as is provided by Section # 9360 R. S. 1899, for the taxes of 1906 as shown by the abstracts of the Tax Books duly certified to this office by the clerks of the foregoing counties.

In witness whereof, I have hereunto set my hand and affixed the seal of the State Auditor this 23rd day of March, 1907.

[SEAL.]

WM. W. WILDER,
State Auditor.

By S. T. GRESHAM,
Chief Clerk.

3056

EXHIBIT No. 35.

Total assessed value by State Board in 1906	$14,247,813.23
Total Local assessments	530,440.00
	$14,778,253.23
This at one-third of actual valuation would equal	$44,334,759.69
Divided by 1147 miles of C. B. & Q. R. R. makes per mile	$38,652.

Ex. 36.

State of Missouri—Maximum Freight Rate Matter.

Chicago, Burlington & Quincy Railway Company.

Statement of Missouri's Proportion of the Freight Earnings of the Chicago, Burlington & Quincy Railway Company; Also Tons One Mile, etc.—Month of September, 1906.

	Character of freight.	(1) Number of tons.	(2) Percentage of total tons.	(3) Revenue.	(4) Percentage of total revenue.	(5) Average amount received per ton.	(6) Number of tons one mile.	(7) Percentage of total ton miles.	(8) Average amount received per ton per mile (dollars).	(9) Average length of haul (miles).
1.	"Through" Interstate:									
2.	Carload	166,853	26.46	$146,337.56	20.13	$.8770	26,589,489	33.00	.005504	159
3.	Less-than-carload	7,293	2.16	19,266.84	2.65	2.6418	1,215,810	1.51	.015847	167
4.	Total	174,146	27.62	$165,604.40	22.78	$.9508	27,805,299	34.51	.005956	160
5.	"Second Class" Interstate:									
6.	Carload	350,025	55.52	$367,560.22	50.55	$1.0501	42,860,408	53.20	.008576	122
7.	Less-than-Carload	19,906	3.15	74,966.67	10.31	3.7660	2,914,278	3.62	.025724	146
8.	Total	369,931	58.67	$442,526.90	60.86	$1.1962	45,774,686	56.82	.009668	124
9.	All Interstate:									
10.	Carload	516,878	81.98	$513,897.78	70.68	$.9942	69,449,897	86.20	.007400	134
11.	Less-than-carload	27,199	4.31	94,233.52	12.96	3.4645	4,130,088	5.13	.022816	152
12.	Total	544,077	86.29	$608,131.30	83.64	$1.1177	73,579,985	91.33	.008265	135

13. State:									
14. Carload	78,169	12.39	$82,450.36	11.34	$1.0548	6,200,564	7.70	.013297	79
15. Less-than-carload	8,289	1.32	36,476.99	5.02	4.4007	782,197	.97	.046634	94
16. Total	86,458	13.71	$118,927.35	16.36	$1.3756	6,982,761	8.67	.017032	81
17. Total Interstate and State	630,535	100.	$727,058.65	100.	$1.1531	80,562,746	100.	.009025	128
18. Total Carload	595,047	94.37	$596,348.14	82.02	$1.0022	75,650,461	93.90	.007883	127
19. Total Less-than-carload	55,488	5.63	$130,710.51	17.98	$3.6832	4,912,285	6.10	.026609	138

20. Ratio of Revenue per ton per mile on less-than-carload Interstate freight (all) to Less-than Carload State Freight..... 48.93%
21. " " " " " " " " Carload " " " " Carload " " 55.65
22. " " " " " " " " " " " " " " Less-than-Carload Interstate freight (all) 32.43
23. " " " " " " " " " State " " " " " " State " 28.51
24. " " " " " " " " " Interstate " (all) " " " " " " " 15.87
25. " " " " " " " " all Interstate freight to all freight..... 48.53
26. " " " " " " " " " Carload " " " less-than-carload freight 29.63

3058 EXHIBIT 36*a*.

Review of State's Exhibit 36.

(*a*) Exhibit 36 is a statement of tonnage, ton miles and freight earnings for September, 1906, while Exhibit 1 is a statement of the actual state and interstate earnings for 1905. Exhibit 36 is then used as the basis for Exhibits 37, 38, 39, and 40, upon the assumption that the figures therein if applied to those of the year 1905 as shown by Exhibit 1, would show upon certain other assumptions, a great profit in carrying state freight. So much is assumed in the exhibit and so much of it is theoretical that it is exceedingly difficult to meet the same by applying to it any facts as a test. Exhibit 36*a* is now prepared for the purpose of showing, among other things, that no figure in Exhibit 36 is fairly representative of the entire year of 1905 and hence as the exhibit is used as the basis for exhibits 37, 38, 39 and 40, they are thereby shown to be worthless.

(*b*) The month of September, 1906, as a matter of fact was unfair to be used. Take the case of grain for which the following Burlington System figures will serve as an index:

Originating on Burlington System consigned to System points.

	1/2 of figures for calendar year 1905.	September, 1906.	Difference.	
	Cars.	Cars.	Cars.	%
Wheat	2,665	2,456	.....	.....
Corn	4,537	3,149	.....	.....
Oats	1,577	942	.....	.....
Grain (N. O. S.).....	361	276	.....	.....
	9,140	6,823	2,317	34

This table shows that this great car load commodity, of which a great per cent is interstate, was for an average month 34% greater than for September. It shows how absolutely unrepresentative are the figures given in Exhibit 36.

3059 (*c*) In Exhibit 36 the State Expert has included as State freight only the live stock out of Kansas City and has excluded from State freight, live stock into Kansas City. This was an arbitrary division based on a statement that the loading was "generally" done on a track the center of which is just 4-1/5 feet on the Missouri side of the Missouri-Kansas State line, and the unloading "generally" done on a track the center of which is just 7-9/10 feet of the Kansas side of the State line. The division was unwarranted because the Burlington's track, used by trains both coming from and going into the stock yards is at one point in Kansas 74-2/10 feet from the State line, which shows that all the live stock to and from the Kansas City Stock Yards comes under the same classification as State or Interstate business. That this is a large and important question, and that as such proves the worthlessness of con-

clusions drawn from Exhibit 36 (also 37, 38, 39 and 40), is shown by page 4 Exhibit one where the earnings on live stock for year 1905 are given as $373,372.55 out of the total earnings of $526,532.72 from State business affected by the act of 1905, i. e. 71%. $373,372.55 equals .228% of the amount of State freight business, $1,649,665.75. When it is remembered that the St. Louis Stock Yards are in East St. Louis and that hence earnings on live stock for that point are not included in State earnings, it is evident that the earnings on Kansas City business are so large as to seriously impair the relationship between State and Interstate business if wrongly apportioned. Blue prints of Kansas City Stock Yard tracks are made part of this exhibit, one showing the yards as a whole, and the other the location therein of the tracks of the Burlington.

(*d*) Exhibit 36 was not prepared by the complainant, but certain work in reference thereto was done by its employés as a matter of agreement, so as not to discommode the office work. It was agreed that any information called for by the state's expert would be taken from the way-bills by the employés of complainant and handed to the state. The state's expert selected what he wanted compiled, and then made up his statement as to how it should be treated. He directed what he wanted and how certain items were to be
3060 treated. No one ever agreed or intended to agree for the complainant that his figures were applied upon the right basis, nor did any such employé attempt to apply them.

(*e*) Exhibit 36 covers the period of one month in 1906. Exhibit 1 contains the figures for one year that of 1905. To make Exhibit 36 fairly representative of a year's business, other conditions being equal, each class of earnings should be multiplied by twelve. When this is done and a comparison made with Exhibit 1, this is the result:

Earnings.	Exhibit 1.	Exhibit 36.	Difference.
Interstate	6,735,454.71	7,297,575.60	+562,120.89
State	1,649,665.73	1,427,128.20	—222,537.53
All	8,335,120.44	8,724,703.80	+339,583.36

Of course, if it were merely a question of the increase of all earnings, it might be said that in the year 1906 more business was done than in 1905, but the result is that the interstate earnings for the year 1906, upon the basis of Exhibit 36 being fairly representative, is $562,120.89 in excess of 1905, while the state earnings are $222,537.53 less than 1905, the tendency of which would be to help make a greater divergence in the percentages upon a ton mile basis, which, of course, if the state's theory is correct, would be somewhat advantageous to the state.

(*f*) The following is a statement called for in the cross-examination of State expert Taliaferro, and under his signature produced by him:

Maximum Freight Rate Matter—C. B. & Q. Ry.

Dividing the state freight revenue shown by complainant's exhibit 1, by the average amount received per ton on all state business, as shown by Exhibit 36 for September, 1906, and by the aver-

age amount received per ton per mile, also shown by Exhibit 36, gives

Tons	1,199,234
Ton Miles	96,856,842

Dividing the interstate freight earnings shown by Exhibit 1, by the average amount received per ton on all interstate business, as shown by Exhibit 36, and by the average amount received per ton per mile, on all of the interstate business, also shown by Exhibit 36, gives,

Tons	6,026,174
Ton Miles	814,937,049

3061 Tons as above:

State	1,199,234	or 16.60%
Interstate	6,026,174	or 83.40%
Total	7,225,408	

Ton Miles as above:

State	96,856,842	or 10.62%
Interstate	814,937,049	or 89.38%
Total	911,793,891	100%

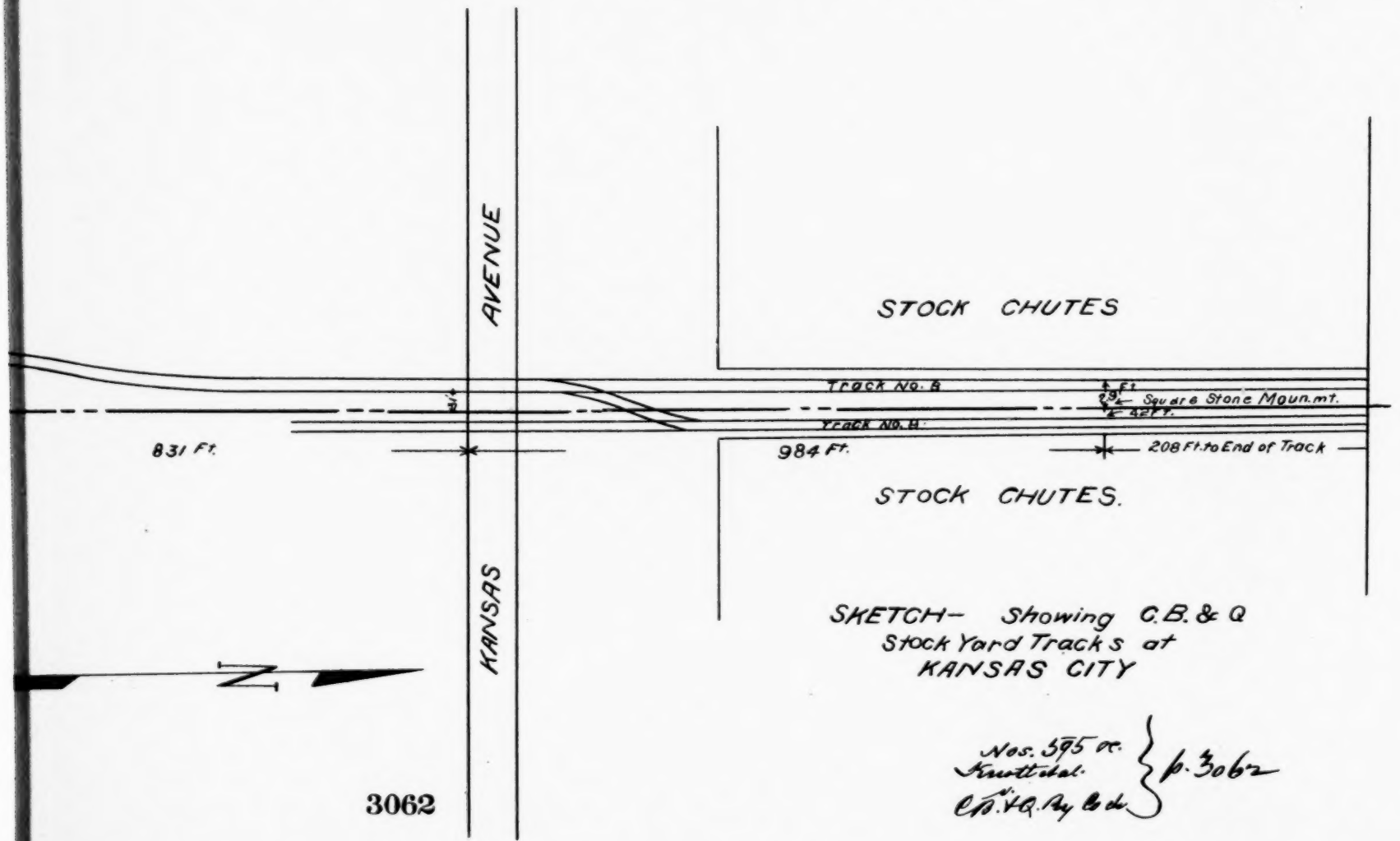
This shows that applying the figures of Exhibit 36 to the income received in 1905 as shown by Exhibit 1, the total tons of state freight were 1,199,234, divided by 12 to get one month, would show 99,936, as against 86,458 tons as shown by Exhibit 36. So, as to ton miles, there would have been in the year 96,856,842 ton miles of local freight, or 8,071,403 a month as against 6,982,761. So the percentages show a like marked difference. Thus, Exhibit 36 shows the percentage of a revenue between interstate and state to be 83.64 and 16.36, while Exhibit 1 shows 80.33 and 19.67. Exhibit 36 shows the percentage of total tons as 86.29 for interstate, as against 13.71 for state, but when applied by the state's expert, these figures became respectively 83.40 and 16.60 so while Exhibit 36 shows the percentage of ton miles to be, interstate 91.33 and state 8.67, as applied to Exhibit 1, the state's expert shows them to be respectively 89.38 and 10.62.

(*g*) The percentage of total freight revenue in Exhibit 36 being of interstate and state respectively 83.64 and 16.36, as against 80.33 and 19.67, as shown by Exhibit 1, makes the percentage of state freight revenue 3.31% less than as shown by Exhibit 1. This percentage of all freight revenue, $8,385,120.44 is $277,547.49, difference as to state freight.

(*h*) So, when compared with the figures of the Missouri Pacific made upon the same basis, the variance is equally noticeable as was *be* shown by Exhibit 27*a*.

(Here follows diagram marked p. 3062.)

KANSAS
MISSOURI
74.2' Ft.



SKETCH— Showing C.B. & Q
Stock Yard Tracks at
KANSAS CITY

Nos. 595 &c.
Knott et al.
v.
C.B. & Q. Ry Co. &c.
p. 3062

3062

3063 **EXHIBIT 37*a*.**

(*a*) According to Exhibits 37, 38, 39, 40, the estimated number of Burlington ton miles and averages are:

	Miles.	Percentages.
Interstate	814,914,988	89.38
State	96,862,311	10.62

The tons ascertained in the same way, by dividing the total earnings (Exhibit one) by the amount received per ton as shown by Exhibit 36 are

	Ton miles.
Interstate	$6,735,454.71 ÷ 1.1177 = 6,026,174 = 83.40%
State	1,649,665.75 ÷ 1.3756 = 1,199,234 = 16.60%

(*b*) The Missouri Pacific ton miles and percentages are in Exhibits 30, 30*a* and 31 in that case shown to be:

	Ton miles.	Percentages.
Interstate	484,489,841	83.14
State	98,257,793	16.86

This result is reached by applying Exhibit 19 in that case, Exhibit 27 in this, to Exhibit 5*c* in that case, or 27*c* in this. The tons ascertained in the same way are, by Exhibit 30*a* in the Missouri Pacific Case shown to be:

Interstate	4,595,366 = 70.91%
State	1,884,862 = 29.09%

(*c*) The state earnings upon the Burlington and Missouri Pacific as shown in Exhibit 1 in this case and 5*c* in the Missouri Pacific case, or 27c in this case are:

Burlington	$1,649,665.73
Missouri Pacific	1,632,856.14
Difference	$16,809.59

Which represents the difference in state freight earnings actually made in 1905 and is equal to $1400.80 per month. The difference in tons and ton miles of state freight as shown by these exhibits is this:

	Tons.	Ton miles.
Missouri Pacific	1,884,862	98,257,793
Burlington	1,199,234	96,856,842
	685,628	1,400,951

3064 These figures, however, with all their differences, are ascertained after applying Exhibits 27 and 36 to the gross state freight earnings.

(*d*) The differences become more palpable when Exhibit 27 is compared with Exhibit 36 as has been done in Exhibit 27*a*, which statement is for one month. This, though in total freight revenue the Burlington receives only $1400.80 per month more than the Missouri Pacific, yet the difference in state freight, revenue, ton and ton miles for one month were:

	Revenue.	Tons.	Ton miles.
Ex. 27	130,837.56	151,033	7,872,906
Ex. 36	118,927.35	86,458	6,982,761
1 month	11,910.21	64,575	890,145
12 months	142,922.52	774,900	10,681,740

These differences in tons and ton miles become *b*ery remarkable if there be applied thereto the revenue as given in Exhibit 36; that is, $1.3756 per ton and $.017032 per ton mile of state freight as shown by this table:

			Ton miles.	
1 month	64,575 =	$88,829.37	890,145 =	$15,160.95
12 months	774,900 =	1,065,952.44	10,681,740 =	181,931.40

3065 EXHIBIT 37*b*.

(*a*) Exhibits 37, 38, 39 and 40 are based upon assumptions too theoretical and unpracticable to be of value, and as a matter of actual experience, none of the assumptions or figures are applicable to the Burlington Road. These Exhibits show that after allowing for the increased cost of doing state business that upon every theory in which the state's expert indulges, the state freight expenses for 1905 ranged from $709,705.22 in Exhibit 40 to $788,352.07 in Exhibit 37. Applying these figures to all freight $8,385,120.44, and state freight earnings $1,649,665.75 respectively there is this result:

	Of all freight earnings.	Of all State freight earnings.
$709,705.22 =	8%	43%
$788,352.07 =	9%	48%

(*b*) It is absurd to say that the state freight expense is only from 43% to 48% of the state freight earnings. Actual practice and experience shows that such figures as applied to the Burlington road are absolutely incorrect and unreliable. The terminal expenses at St. Louis and Kansas City alone were shown in the Missouri Pacific case to exceed 40% of all the state freight expense. There is not now at hand and it cannot be well obtained in the short time allotted for the preparation of these Exhibits, the data to accurately estimate this expense to the Burlington—such expense for the Burlington is prob-

ably greater. Any such allowance for such terminals or even one half thereof would destroy the results reached by Exhibits 37, 38, 39, 40.

(*c*) When the comparisons are carried further, the absurdity of the Exhibits become more apparent. Thus after allowing for all increased cost of doing the state business, the freight operating expenses are fixed at figures equalling from .08% to .09% of all earnings. Yet if all freight expenses were divided upon a revenue, tonnage or ton mile basis, without any allowance for extra cost this would be the result:

Revenue (Exhibit 41, par. —) ..... = 13.10%
Tonnage (Exhibit 36*a*, par. —) 16.60 of all freight or of 66.63% of all earnings ..... = 11.06%
Ton Mile (Exhibit 36*a*, par. —) 10.72 of 66.63% of all earnings ..... = 7.08%

Ex. 37.

State of Missouri—Maximum Freight Rate Matter.

The Chicago, Burlington and Quincy Railway Company.

Statement of Gross Earnings, Operating Expenses, and Net Earnings of the Freight Business of the Chicago, Burlington and Quincy Railway Company in Missouri for the Calendar Year 1905, on the Following Basis.

First. That of the Interstate freight earnings of $6,735,454.71, shown by Exhibit #1, 84.51%, or $5,691,857.50, was derived from carload business and 15.49%, or $1,043,597.21, from less-than-carload business. This division is based on the showing made by the Company's waybills for September, 1906.

Second. That of the State freight earnings of $1,649,665.73, shown by Exhibit #1, 69.33%, or $1,143,713.25, was derived from carload business and 30.67% or $505.952.48, from less-than-carload business. This division is based on the showing made by the Company's waybills for September, 1906.

Third. That the earnings from Interstate carload business, in Missouri, amounted to .74 cents per ton per mile, as shown by the examination of the Chicago, Burlington and Quincy Railway company's waybills for the month of September, 1906.

Fourth. That the earnings from Interstate less-than-carload business, in Missouri, amounted to 2.2816 cents per ton per mile, as shown by the examination of the Chicago, Burlington and Quincy Railway Company's waybills for the month of September, 1906.

Fifth. That the earnings from State carload business in Missouri amounted to 1.3297 cents per ton per mile, as shown by the examination of the Chicago, Burlington and Quincy Railway Company's waybills for the month of September, 1906.

Sixth. That the earnings from State less-than-carload business in Missouri amounted to 4.6634 cents per ton per mile, as shown by the examination of the Chicago, Burlington and Quincy Railway Company's waybills for the month of September, 1906.

Seventh. That the total operating expenses of the State carload business were twice as much per ton per mile as the total operating expenses per ton per mile of *all* the Interstate carload business.

Eighth. That the total operating expenses of *all* the less-than-carload business were three (3) times, five (5) times, or seven (7) times as much per ton per mile as the total operating expenses per ton per mile of *all* the Interstate carload business.

	Tons one mile.	Operating expenses divided on basis of State carload costing twice, and all less-than-carload three times as much per ton per mile as all interstate carload business.	Operating expenses divided on basis of State carload costing twice, and all less-than-carload five times as much per ton per mile as all interstate carload business.	Operating expenses divided on basis of State carload costing twice, and all less-than-carload seven times as much per ton per mile as all interstate carload business.
All interstate carload business	769,177,845			
Gross Earnings		$5,691,857.50	$5,691,857.50	$5,691,857.50
Operating Expenses		3,239,287.40	2,939,405.36	2,690,985.14
Net Earnings		$2,452,570.10	$2,752,452.14	$3,000,872.36
All interstate less-than-carload business	45,737,143			
Gross Earnings		$1,043,597.21	$1,043,597.21	$1,043,597.21
Operating Expenses		577,775.84	873,915.20	1,119,996.25
Net Earnings		$465,821.37	$169,682.01	$76,399.04
State carload business	86,012,878			
Gross Earnings		$1,143,713.25	$1,143,713.25	$1,143,713.25
Operating Expenses		724,208.10	657,307.74	601,635.41
Net Earnings		$419,505.15	$486,405.51	$542,077.84

	Tons one mile.	Operating expenses divided on basis of State carload costing twice and all less-than-carload three times as much per ton per mile as all interstate carload business.	Operating expenses divided on basis of State carload costing twice and all less-than-carload five times as much per ton per mile as all interstate carload business.	Operating expenses divided on basis of State carload costing twice and all less-than-carload seven times as much per ton per mile as all interstate carload business.
State less-than-carload business	10,849,433			
Gross Earnings		$505,952.48	$505,952.48	$505,952.48
Operating Expenses		137,075.56	207,718.60	265,730.10
Net Earnings		$368,876.92	$298,233.88	$240,222.38
Total interstate business	814,914,988			
Gross Earnings		$6,735,454.71	$6,735,454.71	$6,735,454.71
Operating Expenses		3,817,063.24	3,813,320.56	3,810,981.39
Net Earnings		$2,918,391.47	$2,922,134.15	$2,924,473.32

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The Chicago, Burlington and Quincy Railway Company.

Statement of Gross Earnings, Operating Expenses, and Net Earnings, etc.

	Tons, one mile.	Operating expenses divided on basis of State carload costing twice and all less-than-carload three times as much per ton per mile as all interstate carload business.	Operating expenses divided on basis of State carload costing twice and all less-than-carload five times as much per ton per mile as all interstate carload business.	Operating expenses divided on basis of State carload costing twice and all less-than-carload seven times as much per ton per mile as all interstate carload business.
Total State business	96,862,311			
Gross Earnings		$1,649,665.73	$1,649,665.73	$1,649,665.73
Operating Expenses		861,283.66	865,026.34	867,365.51
Net Earnings		$788,382.07	$784,639.39	$782,300.22
Total freight	911,777,299			
Gross Earnings		$8,385,120.44	$8,385,120.44	$8,385,120.44
Operating Expenses		4,678,346.90	4,678,346.90	4,678,346.90
Net Earnings		**$3,706,773.54**	**$3,706,773.54**	**$3,706,773.54**

Ratio of Operating Expenses to Gross Earnings:			
All Interstate Carload Business	56.91%	51.64%	47.27%
All Interstate less-than-Carload Business	55.36%	83.75%	107.32%
All Interstate Business	56.67%	56.61%	56.58%
State Carload Business	63.33%	57.47%	52.60%
State less-than-carload Business	27.09%	41.05%	52.12%
All State Business	52.21%	52.43%	52.57%
All Freight	55.79%	55.79%	55.79%

Ex. 38.

State of Missouri—Maximum Freight Rate Matter.

The Chicago, Burlington and Quincy Railway Company.

Statement of Gross Earnings, Operating Expenses, and Net Earnings of the Freight Business of the Chicago, Burlington and Quincy Railway Company, in Missouri, for the Calendar Year 1905, *on the Following Basis.*

First. That of the Interstate freight earnings of $6,735,454.71, shown by Exhibit #1, 84.51%, or $5,691,857.50, was derived from carload business and 15.49%, or $1,043,597.21, from less-than-carload business. This division is based on the showing made by the Company's waybills for September, 1906.

Second. That of the State freight earnings of $1,649,665.73, shown by Exhibit #1, 69.33%, or $1,143,713.25, was derived from carload business and 30.67% or $505,952.48, from less-than-carload business. This division is based on the showing made by the Company's waybills for September, 1906.

Third. That the earnings from Interstate carload business, in Missouri, amounted to .74 cents per ton per mile, as shown by the examination of the Chicago, Burlington and Quincy Railway Company's waybills for the month of September, 1906.

Fourth. That the earnings from Interstate less-than-carload business, in Missouri, amounted to 2.2816 cents per ton per mile, as shown by the examination of the Chicago, Burlington and Quincy Railway Company's waybills for the month of September, 1906.

Fifth. That the earnings from State carload business, in Missouri, amounted to 1.3297 cents per ton per mile, as shown by the examination of the Chicago, Burlington and Quincy Railway Company's waybills for the month of September, 1906.

Sixth. That the earnings from State less-than-carload business, in Missouri, amounted to 4.6634 cents per ton per mile, as shown by the examination of the Chicago, Burlington and Quincy Railway Company's waybills for the month of September, 1906.

Seventh. That of the total operating expenses in connection with State carload freight that portion known as "Conducting Transportation" was twice as great per ton per mile as on *all* Interstate carload business per ton per mile.

Eighth. That of the total operating expenses in connection with *all* the less-than-carload business, that portion known as "Conducting Transportation" was three (3) times, five (5) times, or seven (7) times as great per ton per mile, as on all Interstate carload business per ton per mile.

	Tons, one mile.	Operating expenses divided on basis of conducting transportation portion of same costing on State carload twice and on all less-than-carload three times as much per ton per mile as on all interstate carload business.	Operating expenses divided on basis of conducting transportation portion of same costing on State carload twice and on all less-than-carload five times as much per ton per mile as on all interstate carload business.	Operating expenses divided on basis of conducting transportation portion of same costing on State carload twice and on all less-than-carload seven times as much per ton per mile as on all interstate carload business.
All interstate carload business	769,177,345			
Gross Earnings		$5,691,857.50	$5,691,857.50	$5,691,857.50
Operating Expenses		3,506,888.84	3,297,766.73	3,112,504.19
Net Earnings		$2,184,968.66	$2,394,090.77	$2,579,353.31
All interstate less-than-carload business	45,737,143			
Gross Earnings		$1,043,597.21	$1,043,597.21	$1,043,597.21
Operating Expenses		448,185.63	646,547.54	822,921.22
Net Earnings		$595,411.58	$397,049.67	$220,675.99
State carload business	86,012,878			
Gross Earnings		$1,143,713.25	$1,143,713.25	$1,143,713.25
Operating Expenses		617,073.96	580,582.85	547,834.42
Net Earnings		$526,639.29	$563,130.40	$595,878.83
State less-than-carload business	10,849,433			
Gross Earnings		$505,952.48	$505,952.48	$505,952.48
Operating Expenses		106,198.47	153,449.78	195,087.07
Net Earnings		$399,754.01	$352,502.70	$310,865.41

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Total interstate business	814,914,988			
Gross Earnings		$6,735,454.71	$6,735,454.71	$6,735,454.71
Operating Expenses		3,955,074.47	3,944,314.27	3,935,425.41
Net Earnings		$2,780,380.24	$2,791,140.44	$2,800,029.30
3069 Total State business	96,862,311			
Gross Earnings		$1,649,665.73	$1,649,665.73	$1,649,665.73
Operating Expenses		723,272.43	734,032.63	742,921.49
Net Earnings		$920,393.30	$915,633.10	$906,744.24
Total freight	911,777,299			
Gross Earnings		$8,385,120.44	$8,385,120.44	$8,385,120.44
Operating Expenses		4,678,346.90	4,678,346.90	4,678,346.90
Net Earnings		$3,706,773.54	$3,706,773.54	$3,706,773.54
Ratio of operating expenses to gross earnings:				
All Interstate Carload Business		61.61%	57.94%	54.68%
All Interstate less-than-carload business		42.95%	61.95%	78.85%
All Interstate Business		58.72%	58.56%	58.43%
State Carload Business		53.95%	50.76%	47.89%
State less-than-carload Business		20.99%	30.33%	38.55%
All State Business		43.84%	44.50%	45.03%
All Freight		55.79%	55.79%	55.79%

State of Missouri—Maximum Freight Rate Matter.

The Chicago, Burlington and Quincy Railway Company.

Statement of Gross Earnings, Operating Expenses, and Net Earnings of the Freight Business of the Chicago, Burlington and Quincy Railway Company in Missouri for the Calendar Year 1905 *on the Following Basis.*

First. That of the Interstate freight earnings of $6,735,454.71, shown by Exhibit #1, 27.23%, or $1,834,064.32, was derived from "Through" Interstate business, and 72.77%, or $4,901,390.39, from "Second Class" Interstate business. This division is based on the showing made by the Company's waybills for September, 1906.

Second. That of the "Through" Interstate freight earnings of $1,834,064.32, shown above, 88.37%, or $1,620,-762.64, was derived from carload business and 11.63%, or $213,301.68 from less-than-carload business. This division is based on the showing made by the company's waybills for September, 1906.

Third. That of the "Second Class" Interstate freight earnings of $4,901,390.39, shown above, 83.06%, or $4,071,094.86, was derived from carload business and 16.94%, or $830,295.53, from less-than-carload business. This division is based on the showing made by the Company's waybills for September, 1906.

Fourth. That of the State freight earnings of $1,649,665.73, shown by Exhibit #1, 69.33%, or $1,143,713.25, was derived from carload business, and 30.67%, or $505,952.48, from less-than-carload business. This division is based on the showing made by the Company's waybills for September, 1906.

Fifth. That the earnings from "Through" Interstate carload business, in Missouri, amounted to .5504 cents per ton per mile, as shown by the examination of the Chicago, Burlington and Quincy Railway Company's waybills for the month of September, 1906.

Sixth. That the earnings from "Through" Interstate less-than-carload business, in Missouri, amounted to 1.5847 cents per ton per mile, as shown by the examination of the Chicago, Burlington and Quincy Railway Company's waybills for the month of September, 1906.

Seventh. That the earnings from "Second class" Interstate carload business, in Missouri, amounted to .8576 cents per ton per mile, as shown by the examination of the Chicago, Burlington and Quincy Railway Company's waybills for the month of September, 1906.

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Eighth. That the earnings from "Second class" Interstate less-than-carload business, in Missouri, amounted to 2.5724 cents per ton per mile, as shown by the examination of the Chicago, Burlington and Quincy Railway Company's waybills for the month of September, 1906.

Ninth. That the earnings from State Carload business, in Missouri, amounted to 1.3297 cents per ton per mile, as shown by the examination of the Chicago, Burlington and Quincy Railway Company's waybills for the month of September, 1906.

Tenth. That the earnings from State less-than-carload business, in Missouri, amounted to 4.6634 cents per ton per mile, as shown by the examination of the Chicago, Burlington and Quincy Railway Company's waybills for the month of September, 1906.

Eleventh. That the total operating expenses of the "Second Class" Interstate carload business were one and one-half times, and of the State carload business, two times as much per ton per mile as the total operating expenses per ton per mile of the "Through" Interstate carload business.

Twelfth. That the total operating expenses of *all* the less-than-carload business were three (3) times, five (5) times, or seven (7) times as much per ton per mile as the total operating expenses per ton per mile of the "Through" Interstate carload business.

	Tons one mile.	Operating expenses divided on basis of "second class," Interstate carload costing one and one-half times, State carload twice, and all less - than - carload three times as much per ton per mile as "through" Interstate carload business.	Operating expenses divided on basis of "second class," Interstate carload costing one and one-half times, State carload twice, and all less - than - carload five times as much per ton per mile as "through" Interstate carload business.	Operating expenses divided on basis of "second class," Interstate carload costing one and one-half times, State carload twice, and all less - than - carload seven times as much per ton per mile as "through" Interstate carload business.
"Through" interstate carload business.....	294,469,956			
Gross Earnings		$1,620,762.64	$1,620,762.64	$1,620,762.64
Operating Expenses		1,021,750.96	942,680.90	875,318.71
Net Earnings.....		$599,011.68	$678,075.74	$745,443.93

The Chicago, Burlington and Quincy Railway Company.

Statement of Gross Earnings, Operating Expenses, and Net Earnings, etc.—Continued.

	Tons one mile.	Operating expenses divided on basis of "second class," interstate carload costing one and one-half times, State carload twice, and all less-than-carload three times as much per ton per mile as "through" interstate carload business.	Operating expenses divided on basis of "second class," interstate carload costing one and one-half times, State carload twice, and all less-than-carload five times as much per ton per mile as "through" interstate carload business.	Operating expenses divided on basis of "second class," interstate carload costing one and one-half times, State carload twice, and all less-than-carload seven times as much per ton per mile as "through" interstate carload business.
"Through" interstate less-than-carload business	13,460,066			
Gross Earnings		$213,301.68	$213,301.68	$213,301.68
Operating Expenses		140,350.41	215,671.79	279,765.14
Net Earnings		$72,951.27	$2,370.11	$66,463.46
"Second class" interstate carload business	474,707,889			
Gross Earnings		$4,071,094.86	$4,071,094.86	$4,071,094.86
Operating Expenses		2,470,635.00	2,279,290.61	2,115,548.57
Net Earnings		$1,600,459.86	$1,791,804.25	$1,955,546.39

"Second class" interstate less-than-carload business	32,277,077			
Gross Earnings		$830,295.53	$830,295.53	$830,295.53
Operating Expenses		335,905,31	516,489.50	671,342.78
Net Earnings		$494,390.22	$313,806.03	$158,952.75
State carload business	86,012,878			
Gross Earnings		$1,143,713.25	$1,143,713.25	$1,143,713.25
Operating Expenses		596,957.06	550,641.43	510,875.48
Net Earnings		$546,756.19	$593,071.82	$632,837.77
State less-than-carload business	10,849,433			
Gross Earnings		$505,952.48	$505,952.48	$505,952.48
Operating Expenses		112,748.16	173,566.67	225,496.32
Net Earnings		$393,204.32	$332,385.81	$280,456.16
Total interstate business	814,914,988			
Gross Earnings		$6,735,454.71	$6,735,454.71	$6,735,454.71
Operating Expenses		3,968,641.68	3,954,138.80	3,941,975.10
Net Earnings		$2,766,813.03	$2,781,315.91	$2,793,479.61
Total State business	96,862,311			
Gross Earnings		$1,649,665.73	$1,649,665.73	$1,649,665.73
Operating Expenses		709,705.22	724,208.10	736,371.80
Net Earnings		$939,960.51	$925,457.63	$913,293.93
Total freight	911,777,299			
Gross Earnings		$8,385,120.44	$8,385,120.44	$8,385,120.44
Operating Expenses		4,678,346.90	4,678,346.90	4,678,346.90
Net Earnings		$3,706,773.54	$3,706,773.54	$3,706,773.54

Ratio of operating expenses to gross earnings:			
"Through" Interstate carload Business	63.04%	58.16%	54.06%
"Through" Interstate less-than-carload Business	65.79%	100.64%	131.15%
"Second Class" Interstate Less-than-carload Business	60.68%	55.98%	51.96%
"Second Class" Interstate Less-than-carload Business	40.45%	62.21%	80.85%
All Interstate Business	58.92%	58.71%	58.53%
State Carload Business	52.19%	48.14%	44.66%
State less-than-carload Business	22.28%	34.30%	44.57%
All State Business	43.02%	43.90%	44.64%
All Freight	55.79%	55.79%	55.79%

The Chicago, Burlington and Quincy Railway Company.

Statement of Gross Earnings, Operating Expenses, and Net Earnings of the Freight Business of the Chicago, Burlington and Quincy Railway Company, in Missouri, for the Calendar Year 1905, *on the Following Basis.*

First. That of the Interstate freight earnings of $6,735,454.71, shown by Exhibit #1, 27.23%, or $1,834,064.32, was derived from "Through" Interstate business and 72.77%, or $4,901,390.39, from "Second Class" Interstate business. This division is based on the showing made by the Company's waybills for September, 1906.

Second. That of the "Through" Interstate freight earnings of $1,834,064.32, shown above, 88.37%, or $1,620,762.64, was derived from carload business and 11.63% or $213,301.68, from less-than-carload business. This division is based on the showing made by the Company's waybills for September, 1906.

Third. That of the "Second Class" Interstate freight earnings of $4,901,390.39, shown above, 83.06%, or $4,071,094.86, was derived from carload business, and 16.94% or $830,295.53, from less-than-carload business. This division is based on the showing made by the Company's waybills for September, 1906.

Fourth. That of the State freight earnings of $1,649,665.73, shown by Exhibit #1, 69.33%, or $1,143,713.25, was derived from carload business and 30.67%, or $505,952.48, from less-than-carload business. This division is based on the showing made by the Company's waybills for September, 1906.

Fifth. That the earnings from "Through" Interstate carload business, in Missouri, amounted to .5504 cents per ton per mile, as shown by the examination of the Chicago, Burlington and Quincy Railway Company's waybills for the month of September, 1906.

Sixth. That the earnings from "Through" Interstate less-than-carload business, in Missouri, amounted to 1.5847 cents per ton per mile, as shown by the examination of the Chicago, Burlington and Quincy Railway Company's waybills for the month of September, 1906.

Seventh. That the earnings from "Second Class" Interstate carload business, in Missouri, amounted to .8576 cents per ton per mile, as shown by the examination of the Chicago, Burlington and Quincy Railway Company's waybills for the month of September, 1906.

Eighth. That the earnings from "Second Class" Interstate less-than-carload business, in Missouri, amounted to 2.5724 cents per ton per mile, as shown by the examination of the Chicago, Burlington and Quincy Railway Company's waybills for the month of September, 1906.

Ninth. That the earnings from state carload business, in Missouri, amounted to 1.3297 cents per ton per mile, as shown by the examination of the Chicago, Burlington and Quincy Railway Company's waybills for the month of September, 1906.

Tenth. That the earnings from State less-than-carload business, in Missouri, amounted to 4.6634 cents per ton per mile, as shown by the examination of the Chicago, Burlington and Quincy Railway Company's waybills for the month of September, 1906.

Eleventh. That of the total operating expenses in connection with "Second Class" Interstate carload freight, that portion known as "Conducting Transportation" was one and one-half times as great per ton per mile as on "Through" Interstate carload business per ton per mile.

Twelfth. That of the total operating expenses in connection with the State Carload freight, that portion known as "Conducting Transportation", was twice as great per ton per mile as on "Through" Interstate carload business per ton per mile.

Thirteenth. That of the total operating expenses in connection with *all* the less-than-carload business, that portion known as "Conducting Transportation" was three (3) times, five (5) times, or seven (7) times as great per ton per mile as on "Through" Interstate carload business per ton per mile.

	Tons one mile.	Operating expenses divided on basis of conducting transportation portion of same costing on "second class" interstate carload one and one-half times; on State carload twice, and on all less-than-carload three times as much per ton per mile as on "through" interstate carload business.	Operating expenses divided on basis of conducting transportation portion of same costing on "second class" interstate carload one and one-half times; on State carload twice, and on all less-than-carload five times as much per ton per mile as on "through" interstate carload business.	Operating expenses divided on basis of conducting transportation portion of same costing on "second class" interstate carload one and one-half times; on State carload twice, and on all less-than-carload seven times as much per ton per mile as on "through" interstate carload business.
"Through" interstate carload business.....	294,469,956			
Gross Earnings		$1,620,762.64	$1,620,762.64	$1,620,762.64
Operating Expenses		1,185,960.94	1,122,335.42	1,065,727.42
Net Earnings.....		$434,801.70	$498,427.22	$555,035.22

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The Chicago, Burlington and Quincy Railway Company.

Statement of Gross Earnings, Operating Expenses, and Net Earnings, etc.—Continued.

	Tons one mile.	Operating expenses divided on basis of conducting transportation portion of same, costing on "second class" interstate carload one and one-half times, on State carload twice, and on all less-than-carload three times as much per ton per mile as on "through" interstate carload business.	Operating expenses divided on basis of conducting transportation portion of same, costing on "second class" interstate carload one and one-half times, on State carload twice, and on all less-than-carload five times as much per ton per mile as on "through" interstate carload business.	Operating expenses divided on basis of conducting transportation portion of same, costing on "second class" interstate carload one and one-half times, on State carload twice and on all less-than-carload seven times as much per ton per mile as on "through" interstate carload business.
"Through" interstate less-than-carload business	13,460,066			
Gross Earnings		$213,301.68	$213,301.68	$213,301.68
Operating Expenses		116,490.84	169,356.16	216,607.46
Net Earnings		$96,810.84	$43,945.52	$3,305.78
"Second class" interstate carload business	474,707,889			
Gross Earnings		$4,071,094.86	$4,071,094.86	$4,071,094.86
Operating Expenses		2,457,067.79	2,328,881.09	2,211,922.41
Net Earnings		$1,614,027.07	$1,742,213.77	$1,859,172.45

State of Missouri—Maximum Freight Rate Matter.

The Chicago, Burlington and Quincy Railway Company.

Statement of Gross Earnings, Operating Expenses, and Net Earnings, etc.—Continued.

	Tons one mile.	Operating expenses divided on basis of conducting transportation portion of same, costing on "second class" interstate carload one and one-half times, on State carload twice, and on all less-than-carload three times as much per ton per mile as on "through" interstate carload business.	Operating expenses divided on basis of conducting transportation portion of same, costing on "second class" interstate carload one and one-half times, on State carload twice, and on all less-than-carload five times as much per ton per mile as on "through" interstate carload business.	Operating expenses divided on basis of conducting transportation portion of same, costing on "second class" interstate carload one and one-half times, on State carload twice, and on all less-than-carload seven times as much per ton per mile as on "through" interstate carload business.
"Second class" interstate less-than-carload business	32,277,077			
Gross Earnings		$830,295.53	$830,295.53	$830,295.53
Operating Expenses		279,297.31	405,612.68	519,296.51
Net Earnings		$550,998.22	$424,682.85	$310,999.02
State carload business	86,012,878			
Gross Earnings		$1,143,713.25	$1,143,713.25	$1,143,713.25
Operating Expenses		545,495.25	516,021.66	490,290.76
Net Earnings		$598,218.00	$627,691.59	$653,422.49

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State less-than-carload business	10,849,433			
Gross Earnings		$505,952.48	$505,952.48	$505,952.48
Operating Expenses		94,034.77	136,139.89	174,502.34
Net Earnings		$411,917.71	$369,812.59	$331,450.14
Total interstate business	814,914,988			
Gross Earnings		$6,735,454.71	$6,735,454.71	$6,735,454.71
Operating Expenses		4,038,816.88	4,026,185.35	4,013,535.80
Net Earnings		$2,696,637.83	$2,709,269.36	$2,721,900.91
Total State business	96,862,311			
Gross Earnings		$1,649,665.73	$1,649,665.73	$1,649,665.73
Operating Expenses		639,530.02	652,161.55	664,793.10
Net Earnings		$1,010,135.71	$997,504.18	$984,872.63
Total freight	911,777,299			
Gross Earnings		$8,385,120.44	$8,385,120.44	$8,385,120.44
Operating Expenses		4,678,346.90	4,678,346.90	4,678,346.90
Net Earnings		$3,706,773.54	$3,706,773.54	$3,706,773.54
Ratio of operating expenses to gross earnings:				
"Through" Interstate Carload Business		73.17%	69.25%	65.75%
"Through" Interstate Less-than-carload Business		54.61%	52.94%	101.55%
"Second Class" Interstate Carload Business		60.35%	57.21%	54.33%
"Second Class" Interstate Less-than-carload Business		33.64%	48.85%	62.54%
All Interstate Business		59.96%	59.78%	59.59%
State Carload business		47.69%	45.12%	42.87%
State Less-than-Carload Business		18.59%	26.91%	34.49%
All State Business		38.77%	39.53%	40.30%
All Freight		55.79%	55.79%	55.79%

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State of Missouri—Maximum Freight Rate Matter—C. B. & Q. Ry.

Agency freight Stations in Missouri	*170)	This includes stations on I. & St. L. Ry. and R. L. & N. Ry.
Prepaid " " " "	* 60)	
Total	*230)	

* The above information is taken from C., B. & Q. Ry. list of Freight Stations G. F. O. 20,000.

Stations handling Interstate freight only	5—all prepaid stations.
" " State " "	4— do
" " both State and Interstate freight	(170—Agency Stations. (26—Prepaid Stations.
" " no freight business	(25—all Prepaid Stations.
Total	230

3075 EXHIBIT 41.

(*a*) Exhibit 55 in the Missouri Pacific case is adopted and reproduced as an Exhibit here, numbered Exhibit 41*a*.

(*b*) Exhibit 27 was prepared by the state as showing the business upon the Missouri Pacific road for October, 1905, while Exhibit 36 was prepared upon the same basis as representing the business of the Burlington for the month of September, 1906. The differences between the companies for a year's business as to state freight revenue received are not substantial, while the state in valuing the prospect, makes no very great difference, which, upon a proposition of ascertaining what is a fair return upon the prospect lends force to the suggestion that substantial justice is done in apportioning the expenses upon a revenue basis.

(*c*) There are many other reasons why the proportionate part of the expenses chargeable to state freight should be determined upon a revenue and not upon a ton mile basis, some of which will now be detailed.

(*d*) Mr. Gray, in his testimony, showed that the cost of warehouse freight at terminals was approximately 80¢ per ton for a single terminal and that, in distinction, the cost of carload freight was 76.15 cents per car and that the average loading of carload freight was 18.8 tons, making a cost of approximately 4¢ per ton. This shows that, considering a single terminal alone, the less carload freight costs approximately twenty-times as much per ton as the carload freight. While these figures are actual results obtained on the Northern Pacific, they may properly be considered as approximately correct for other roads. In connection with this we must consider that on Interstate freight the number of times the terminals are used are much fewer than on state freight. If any freight either state or interstate is handled only at the beginning and end of its journey, the interstate freight of the first class has no terminal in Missouri, the interstate freight of the second class has one terminal in Missouri, whereas the state freight has two.

It is claimed by the State experts that the interstate freight is handled at terminals (or junctions) oftener than in the
3076 beginning and end of its journey and that these terminal handlings may occur in the State of Missouri. While their contention is doubtless true, the number of handlings are not merely so numerous as in the case of state freight, first, because the stations of Quincy and Keokuk where such handlings would occur, they being considerable distributing points for Missouri freight, are respectively on the Illinois and Iowa sides of the State lines, and, second, there are several hundred stations between which state less carload freight must be transported. These stations are located upon branches remote from each other and located to serve the district as an inlet and outlet, without respect to a continuous line of convenience of interchange between lines; for the reason that the course of interstate freight is in direction of the principal gateways toward which the greater traffic is moving and for which, in the case of less car-

load freight, opportunities of finding through car room and the avoidance of transfer, is vastly greater, and in the case of carload freight there is an opportunity to handle a number of cars with one switch. The following handlings in shipments of state less carload freight are index of the necessary handlings where such freight passes from station on one of our lines in Missouri to another of our lines in the same state. Numerals indicate the number of handlings.

Bucklin to Kearney	4	Breckenridge to Albany	4
Worthington to Wheeling	8	Targio to Skidmore	4
Westboro to Marysville	4	Fairfax to Albany	4
Tarkio to Unionsville	6	Westboro to Connellsville	8
Fairfax to Holt	6	Tarkio to Tina	6
Fairfax to Pattonsburg	4	Tarkio to Bellflower	6

Skidmore on the Clarinda Branch, Marysville on the Creston Branch, Grant City or Albany on the Chariton Branch to the points mentioned above would require the same number of handlings.

Medill to Albany	8	Medill to Marysville	—
Medill to Unionsville	4	Mount City or Tarkio	8
Medill to Trenton	6	Medill to Macon	6
Medill to Carrollton	6	Medill to Liberty	6
Unionsville to Chillicothe	4	Unionsville to Patonsburg	4
Unionsville to Louisiana	6	Unionsville to Mexico	8
Carrollton to Macon	4	Carrollton to Kirkville	6
Carrollton to Trenton	6	Carrollton to St. Joseph	4
Carrollton to Louisiana	6	Carrollton to Albany	6
Connellsville to Macon	6	Connellsville to Unionsville	6
" Hannibal	6	" Kansas City	6
" Albany	10	" Marysville	10
" Skidmore	10	" Tarkio	10
Pattonsburg to Albany	6	Pattonsburg to Marysville	6
" Skidmore	6	" Tarkio	6
" Liberty	6	" Macon	6
" Louisiana	8	" Cameron	4

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Kirksville to Albany	8	Kirksville to Marysville	8
" Skidmore	8	" Tarkio	8
" Monroe	4	" Louisiana	6
" Brookfield	4	" Carrollton	6
Liberty to St. Joseph	4	Liberty to Albany	6
" Marysville	6	" Skidmore	6
" Tarkio	6	" Pattonsburg	6
" Chillicothe	4	" Macon	6
" Osborn	4	" Unionsville	6
" Medill	8	" Louisiana	8
" Mexico	10	" Canton	8
" Connellsville	10	Clarksville to Mexico	4

Clarksville to Monroe	4	" Chillicothe	6
" Carrollton	6	" Pattonsburg	8
" Albany	8	" Marysville	8
" Skidmore	8	" Tarkio	8
" Medill	6	" Unionsville	6
" Connellsville	8	Canton to Macon	4
Canton to Chillicothe	6	" Clarksville	4
" Pattonsburg	6	" Medill	4
" Unionsville	6	" Albany	6
" Marysville	6	" Skidmore	6
" Tarkio	6	Mexico to Monroe	4
Mexico to Carrollton	6	" Kirksville	6
" Albany	6	" Skidmore	6
" Tarkio	6	" Marysville	6
Kansas City to Macon	4	Kansas City to Stewartsville	4
" " Louisiana	6	" " Carrollton	4
" " Unionsville	2	" " Marysville	4
" " Skidmore	4	" " Tarkio	4
" " Connellsville	4	" " Canton	4
St. Joseph to Albany	2	St. Joseph to Skidmore	2
" " Tarkio	2	" " Marysville	2
" " Pattonsburg	2	" " Liberty	4
" " Carrollton	4	" " Unionsville	4
" " Macon	4	" " Canton	4
" " Connellsville	6	" " Mexico	4
" " Louisiana	6	" " Medill	6
" " Cainsville	4	St. Louis to Canton	4
St. Louis to Kirksville	4	" " Pattonsburg	6
" " Chillicothe	2	" " Liberty	2
" " Unionsville	2	" " Carrollton	4
" " Medill	4	" " Albany	4
" " Skidmore	4	" " Marysville	4
" " Tarkio	4	" " Connellsville	6

How are the expenses attaching to all these terminal or junction handlings to be correctly arrived at? The evident answer is that there is no correct basis. That the ton mile basis is the worst possible one and reflects to the least degree the comparative cost, is evident from the fact that it entirely ignores all terminal or junction handling expense and the interstate shipment of the first class, which may not be handled or switched at any terminal or junction point in the State of Missouri, is, by the ton mile basis, put on exactly the same plane as the consignment going say from Worthington, Mo., to Wheeling, Mo., which requires eight handlings and the expense of those handlings is shown, by Mr. Gray's testi-
3078 mony, in the case of less carload freight to be approximately 80¢ per ton and in the case of car load freight to be 4¢ per ton.

How is the revenue basis a better basis than the ton mile for measuring this terminal or junction handling? The State rates are generally higher than the interstate rates, especially for short

hauls. The state rates for the different distances aim to allow for a terminal expense and those rates decrease per mile as the haul becomes greater, on the theory that the terminal expense is spread over a greater number of miles. The revenue basis does therefore allow in part for the additional expense of terminal or junction handling incident to state freight, but the allowance is not sufficient for even the two terminals which must be encountered and allows nothing for the numerous handlings en route.

3079 (*e*) Rates and classification go together. No state and no railroad has published rates without recognizing the division of freight into different classes. The State of Missouri is no exception.

What is the underlying principle? What has been the underlying thought in classifying freight? Primarily, the difference in expense of handling and hauling. These have, it is true, been modified to some extent by the value of the freight transported, by the bulk of the movement, and by what the traffic will bear, but primarily the division into classes was for the purpose of grouping together those kinds of freight which could be handled for approximately the same expense. This same principle brought by the different classifications for L. C. L. as distinct from C. L.

The rates for the different classes vary, the classes of freight which cost more in handling being given a higher rate, and vice versa, those of chapter handling being given a lower rate.

The kinds of freight are generally graded through ten classes; L. C. L. into classes 1, 2, 3, 4 and 5, and C. L. into classes A, B, C, D, and E, in addition to which there are generally commodity classifications covering carloads of particular kinds of freight. From this it is evident that the revenue received is at least a partial index of the cost of handling and hauling various classes of freight, but the ton mile theory absolutely ignores these various classes. Under the ton mile theory of cost it is supposed that one class of freight can be hauled just as cheaply as another, a supposition which is ridiculous on its face. This forces the conclusion that so far as classification of freight is concerned, the revenue basis of apportionment is far preferable to the ton mile basis.

(*f*) It has been testified, and without contradiction, that less carload business costs considerably more than carload business and Exhibit 36 shows that of the total Interstate freight only 5.61%

3080 was less than carload whereas of the total State freight 11.20% was less than carload, that is, proportionately twice as much less carload State as less carload Interstate freight. Now, temporarily disregarding all other considerations, we have here the fact that if we offset 5.61% of the total State freight against the 5.61% of less carload Interstate freight, we still have 5.59% of less carload State freight, which has got to stand against carload freight representing 5.59% of the total Interstate freight. The ton mile theory absolutely ignores this fact and practically says that no extra expense shall be allowed for this 5.59% of less carload State freight.

(*g*) In (*d*), (*e*) and (*f*) above it has been shown that the ton mile basis for apportioning expenses fails absolutely to reflect differ-

ences in terminal and junction expense also fails to reflect the acknowledged fact that some classes of freight are more expensive to handle and transport than others and also fails to reflect differences in proportions of less than carload to all freight. We now propose to show that there is no constant relationship between the cost based, on the one hand, on the ratio of revenue per ton mile all State freight to all Interstate freight and the cost based, on the other hand, on the unit representing the expenses divided by the total ton miles. It is a fact that in working up any set of figures, whether for the whole or part of a road, it will be found that the earnings per ton mile, computed under the two theories, bear a certain relationship, as say 2 to 1, but while that relationship holds good on the figures of to-day, it may not on the figures of tomorrow; while it may hold good on one road it may not on another (and there is no reason why it should). In this case we have had the testimony of experts to show the relative cost of State and Interstate business, of Less-than-carload and of Carload business. These experts were connected with different roads, in different parts of the country, and their testimony applied to the general proposition, therefore where they testified that the cost of state freight was ordinarily three times the cost of Interstate freight they did refer to the ton mile cost computed on the revenue basis, and could not have referred to that cost based on the ton mile theory. If it were shown to one
3081 of those experts, who testified that the cost of State business was three times that of Interstate business, that on a particular road and in a particular State the earnings per ton mile of State freight, computed on the ton mile theory, were one-half of the earnings per ton per mile on the revenue theory, he would have said just as Mr. Elliot did that on that road the cost of doing State business instead of being three times would be six times that of doing Interstate business. If he were told that instead of being one half, the earnings on the ton mile theory were one third of those on the revenue theory, he would have said that instead of three times difference in cost there would be nine times difference in cost.

3082 EXHIBIT 41*a*, which in Missouri Pacific Case is Exhibit 55.

The Reasons Why the Proportionate Part of the Expenses Chargeable to State Freight should be Determined upon a Revenue and Not upon a Ton Mile Basis.

(1) Such is the way it has always been actually ascertained in previous litigation; it was used as the basis of the bills and final decrees, and actually adopted by the courts in cases where a decision upon the point was necessary. (Smythe v. Ames, 64 Fed. Rep. 165, affirmed, 169 U. S. 466, 42 L. Ed. 819; C. M. & St. P. Ry. Co. v. Tompkins, 176 U. S. L. 67, 44 L. Ed. 417; C. M. & St. P. Ry. Co. v. Keyes, 91 Fed. Rep. 47.)

(2) It is the only certain, simple and uniform method. (*a*) It is the simple method because it is the easiest; given the state and interstate freight earnings, with the undivided freight expenses, and

there only remains an arithmetical problem. (*b*) It is certain because in this way all actual earnings are actually accounted and allowed for, whether arising from that portion of the property wholly devoted to state freight, or that devoted to interstate, or that devoted to both. (*c*) It is the only uniform method, because it is the only method by which a division for all purposes can be made. It is necessary to fix a valuation of that portion of the property which is used for carrying state freight. The courts (Smythe v. Ames, 64 Fed. Rep. 165, 179; C. M. & St. P. Ry. Co. v. Tompkins, 90 Fed. Rep. 363, 370, 110 Fed. Rep. 473, 475; C. M. & St. P. Ry. Co. v. Keyes, 91 Fed. Rep. 47, 53), the state's expert (Ev. Ludlam, p. 1153, 1154) and complainant agree that this is to be ascertained upon a revenue basis. If such valuation is to be so ascertained upon basis of revenue it would not be uniform to adopt a ton mile basis for dividing the expenses. That basis rests for its justification entirely upon the length of the haul, which lessens the expense. Many of the expenses, especially of the terminals, are in no wise affected by the haul. So, the State's expert (ev. Ludlam, 1294 et seq.) concedes. The freight expenses of Kansas City terminals aggre-
3083 gate $783,647.66 per annum. The St. Louis freight terminal expenses exceed those of Kansas City. The expenses of other terminals are necessarily great. Although the state's expert (Ev. Ludlam, 1274-1275) claims that some of the terminal expense is affected by the length of the haul because trains with long hauls pass through the terminals, yet he admits (Ev. Ludlam, 1355, 1358, 1359) that the local terminal expense is three times as great as the terminal expense of the freight passing through. The result of his contention is that so much of the terminal expense as is not affected by the length of the haul should not be computed upon a ton mile basis. The state's expert says (Ev. Ludlam, 1274, 1276, 1280) that it should be upon a ton, as distinguished from a ton mile basis, that the valuation upon which a return is to be had should be upon a gross revenue basis (*Id* 1153, 1154), that rentals should be divided (*Id*. 1282, 1420) upon the basis of the ton miles moving over the rented track, as distinguished from the ton mile basis applicable to the entire state, and that as between passenger and freight business interest should be divided according to net revenue (*Id*. 1429) and not, as decided by the courts (C. M. & St. P. Ry. Co. v. Smythe, 110 Fed. Rep. 473, 475) upon gross revenue, but as between state and interstate freight upon (id. 1281, 1282) a ton basis. Lack of uniformity is necessarily the result of the state's contention, for the *gross* revenue basis would have to be applied to valuation, *net* revenue to interest as between passenger and freight business, the ton basis to such portions of the terminal expenses as was not affected by the length of haul, and as to interest so far as it concerns state and interstate freight, the ton mile basis for the entire state to all other expenses excepting rentals, to which should be applied the basis of ton miles only which moved over the rented track. The contention of complainant is that the simple, certain, uniform method is the revenue basis, and such is the method in general use.

(3) The many reasons given by the expert witnesses as to why

expenses should be divided according to revenue are not attempted to be here repeated.

3084 (4) It is absolutely impossible to reliably compare state and interstate freight expenses upon a ton mile basis unless the character and amount of tonnage in each shipment and the cars in each train be taken into consideration. The waste space and loss of tonnage, and the loss of cars in a train make necessary elements to be considered in the comparison. Especially is this true upon the Missouri Pacific Railway where the Missouri retail dealers have the most of their shipments to and from Kansas City and St. Louis, all of which is state business. Whenever at one local point a shipment is unloaded, there is waste space left, though the train may move on in distributing its loads. The same thing is true in bringing loads from the country into these cities. This is not limited to freight in less than carload lots, because in carload lots the cars are distributed and taken into the train at different points, so that between these different points the number of cars in a train may differ, and necessarily the amount of tonnage carried. So in state business the waste tonnage in the cars carried is very much greater than in the interstate business. The amount of interstate traffic in parcels is trifling compared to the volume of interstate business, whereas a very large portion of the state business is of that character.

(5) In handling state and interstate business, and local and through trains, of the elements of expenses to be considered the following are some where no aid can be derived from the comparison made upon a ton mile basis; The time consumed between stations; additional fuel consumed at each station where there is a stop; wear and tear of the locomotive and cars from increased stops and from shifting cars from main to side tracks; wages of employés at intermediate stations; cost of insurance; cost of billing and handling freight at terminals.

(6) So, while the waste space, loss of tonnage, loss in cars carried, terminal expense and other matters mentioned have an important bearing upon the question of the expense as between state and interstate business, not one of such items is affected by the

3085 length of haul. Upon the other hand, the shortness of the haul is one of the elements which makes it cost more to do state than interstate business. Therefore, a comparison upon a ton mile basis, the foundation of which is *length* of haul, would be improper.

3086 EXHIBIT 42.

Complainant's Final Exhibit.

1. General Final Statement.

(*a*) Inasmuch as the World's Fair was in 1904, which the state claims made it an abnormal year so far as concerns railroad traffic in Missouri, this statement will be based upon the figures of 1905, the various compilations of the state being based upon purported figures for that year or some part thereof.

(*b*) Taking the year 1905 as a basis of the final statement, the earnings, expenses and sums to be charged, itemized for future reference, are:

Item 1. Earnings from state freight as shown by Exhibit 1	$1,649,665.75
Item 2. Less operating expenses of state freight on the basis of revenue, i. e., 13.11% of all operating expenses $8,078,807.55, which is exclusive of taxes and rentals	$1,059,131.67
Leaving	$590,534.08
Item 3. Less 13.11 per cent of taxes, aggregating $198,415.86	26,012.32
Leaving	$564,521.76
Item 4. Less 13.11% of rentals, aggregating $2,893,614.75	379,352.89
Leaving	$185,168.87
Item 5. Less diminution, if 1905 rates had been charged	171,122.07
Leaving	$14,046.80
Item 6. Less extra cost of doing state business over interstate	$.....
Leaving	$.....

(*c*) If, instead of deducting from Item 3 $564,521.76 the $379,352.89 mentioned in item 4, the entire rental should be disregarded and there should be deducted 6% interest upon 13.11 per
3087 cent of the total valuation of the railroad property in Missouri, $44,334,759.69, or 6% on $5,812,287.00, the result would be:

Amount of earnings left after deducting operating expenses other than rentals as shown by item 3	$564,521.76
Item 4. Less return at the rate of 6% upon the value of the property in Missouri assignable to local traffic, or 13.11% of 44,344,759.69 i. e. $5,812,287.00, entire valuation in Missouri upon which taxes are levied	348,737.22
Leaving	$215,784.54
5. Less diminution if 1905 rates had been charged	171,122.07
Leaving	$44,662.47
6. Extra cost of doing state business over interstate	$.....
Leaving	$.....

2. Percentages.

(*a*) Exhibit 1 correctly gives and classifies the various earnings. Taking the amounts therefrom and computing the percentages thereon, the result is as follows:

Character of earnings.	Amount.	Percentage of freight, of passenger, and of miscellaneous, respectively.	Percentage of all earnings.
Interstate Frt.	$6,735,454.71	80.33	53.52
State Frt.	1,649,665.73	19.67	13.11
All Freight	8,385,120.44	100	66.63
Interstate Passenger	1,661,576.24	54.83	13.20
State passenger	1,368,745.95	45.17	10.88
All passenger	3,030,322.19	100	24.08
Interstate miscellaneous.	615,582.26	52.65	4.89
State Misc.	553,582.75	47.35	4.40
All Misc.	1,169,165.01	100	9.29
All Earnings	12,584,607.64		100

The result is that upon a division of all expenses according to revenue, state freight earnings are 19.67 per cent of all freight operating expenses, or 13.11 per cent of all operating expenses, aggregating $11,170,838.16.

3088 3. Item 1.

The general earnings for 1905 are shown in Exhibit 1, and those from state freight are $1,649,665.73, and are, by the state's expert (Ev. Fisher, 1179) conceded to be correct, except (id. 1183-1184) he thinks that in the miscellaneous earnings are included (*a*) $126,-705.78 for switching, of which $23,364.55 should have gone to local earnings and the balance to interstate, and (*b*) $21,050.21 of which $3,879.63 should have gone into local freight. He said, however he would divide them upon a freight revenue basis and place them as thus divided in the freight earnings (id. 1144-1147, 1182-1185), and concedes that it would make no substantial or practical difference in results, as the percentage of the whole would be the same. The total of these two sums which he would thus transpose, $27,244.18, would not only increase the state earnings, but also increase the percentage of the expenses, so that in any event the difference, if any from the figures as given would be so slight that the matter can be left as the state's expert is willing to leave it without making any change in this respect. We, therefore, assume that the earnings from local freight are $1,649,665.75, which in any event have been already clearly proven to be correct. Exhibit 36 is prepared so as to put into interstate earnings one-half of all earnings from Missouri livestock shipments to and from the Kansas City stockyards. This was done upon the theory that the unloading chutes are in Kansas and the loading pens are in Missouri. However only part of the unloading pens are in Kansas and these are within 50 feet of the state line, while the unloading pens in Missouri are within ten feet thereof, and hence since Exhibit 1 included all shipments to and from Missouri into the stockyards as Missouri business, the State's expert said the fair thing to do was to place one-half in interstate earnings. It is impossible now to say what amount is, in Exhibit 36, taken from state and placed in interstate earnings. In the Missouri Pacific case the same course was pursued and the amount aggregated $10,423.35 for October, 1905. In Exhibit 36*a* the situation as to these stockyards shipments is fully explained.

3089 4. Item 2, Total Operating Expenses, State and Interstate.

(*a*) In dealing with expenses, operating expenses are treated separately and apart from taxes and rentals, not only because it tends to clearness, but also because the state having so treated them in its statement, the testimony can be more readily applied to the respective contentions of the parties.

(*b*) The total operating expenses for 1905 as shown by Exhibit 1, exclusive of taxes and rentals, are $8,078,807.55, and with the exception of an item relating to the Kansas City Bridge, are admitted to be correct (Ev. Fisher, p. 1189-1196). What amount, if any, should be deducted on account of the Kansas City Bridge will be separately considered (infra 9). This is done because there will in any event be a deficit, and it will tend to clearness to show the same from the standpoint of the method in which the accounts are kept, and as the last item deducts such sum, if any, as should be allowed as the extra

cost of doing state freight business. The State's experts say that it would make only a difference of $55000 or $60,000 (Ev. p. 1194).

(*c*) All operating expenses have been dealt with upon a revenue basis because it is deemed to be right, is sustained by the weight of the evidence, is the simplest method available, and is the only method by which there can be any uniform division or apportionment. See Exhibits 41 and 41*a*.

(*d*) No attempt has been made in item 2 to allow anything for the extra cost of doing the state freight business, that subject being left for item 6 hereafter to be considered, because it is manifest that there will be a deficit if the smallest amount suggested by the State's experts be allowed as representing that extra cost.

5. Item 3.

So far only operating expenses have been dealt with. Exhibit 1 correctly shows that the taxes aggregating $198,415.86, 13.11% of which is $26,012.32, the amount set out in item 3. The
3090 amount of taxes is by the State's Expert (p. 1196) admitted to be correct.

6. Item 4.

Item 4 deducts 13.11 per cent of the rentals, which aggregate $2,893,614.75, the amount being by the State's expert (p. 1197) conceded to be correct. These rentals are chargeable under the lease, Exhibit 2.

7. Item 5. Decrease in Earnings by the Act of 1905.

(*a*) Exhibit 1 shows:

	1904.	1905.
Total revenue received on local business of the classes mentioned in the act of 1905	$539,270.09	$526,532.72
Total which would have been received therefor had been charged the rates authorized by the Act of 1905	365,499.65	355,410.65
Making a total diminution of revenue	173,770.44	171,122.07
Reduction in percentage of the local business	32.22%	32.49%

This decrease for 1905 equals 10.37% of $1,649,665.73, all the state freight earnings. This statement is by the State's expert conceded to be correct (p. 1197-1198), except that the state claims that $44,500 could in 1905 have been used to reduce that diminution, because there were certain kinds of freight as to which the company actually charged less than the rates authorized by the act of 1905. The State's expert, however, concedes that it was quite doubtful whether the railroad company could have charged the higher rate and obtain the business (p. 1199-1200), while the testimony of Messrs. Crosby and Sturgis clearly shows that it would have been impossible. There is therefore no reason for taking the $44,500 from

the $171,122.07 but after allowing for the increased expense of doing the state business there would be a large deficit, even if this $44,500 claimed by the state were allowed.

3091 8. Item 6. Extra Cost of Doing State Freight Business.

(*a*) This question of extra cost has cut a large figure in the testimony and becomes more important in this case than in the Missouri Pacific case, because in that case there was a deficit irrespective of anything being allowed for the extra cost.

(*b*) Of all freight earnings ($8,385,120.44), the state freight ($1,649,665.73) is 19.67% and interstate $6,735,454.71) is 80.33 per cent. All freight earnings are 66.63% of all earnings. If the state freight business costs more than interstate, the extra cost is ascertained in this way:

State and interstate earnings are of all freight earnings respectively 19.67% and 80.33%. There has already been allowed in item 2, 19.67 per cent of all the expenses allotted to all freight, which is equivalent to 13.11 per cent of all the operating expenses, exclusive of taxes and rental. The proposition now is to find how much more than this 19.67 per cent of the actual cost of doing all freight business, it costs to do the state business. This, for example, is now shown upon the basis of it costing 50% more, twice and three times as much.

(*c*) Upon the basis of 50% more:

$$\text{State} \ldots\ldots 19.67 \times 1\tfrac{1}{2} = 29.50 = \frac{29.50}{109.83} = 26.86\%$$

$$\text{Interstate} \ldots\ldots 80.33 \times 1 = \frac{80.33}{109.83} = \frac{80.33}{109.83} = 73.14\%$$

There is already allowed in item 2, 19.67 per cent, which leaves the difference representing the extra cost of 7.19% but this is not of all the operating expenses, only of that portion thereof attributable to all freight; therefore, the extra cost is 7.19 per cent of 66.63 per cent, which is 4.79 per cent of all operating expenses, $8,078,807.55, or $386,974.88.

3092 (*d*) On the basis of twice the cost:

$$\text{State} \ldots\ldots 19.67 \times 2 = 39.34 = \frac{39.34}{119.67} = 32.87\%$$

$$\text{Interstate} \ldots\ldots 80.33 \times 1 = \frac{80.33}{119.67} = \frac{80.33}{119.67} = 67.13\%$$

The difference between 32.87 and 19.67 already allowed in items 2, equals 13.20%, but this is only of the freight operating expenses, 66.63% of all, or 8.80 per cent of all operating expenses, $8,078,807.55, $710,935.06.

(*e*) On the basis of three times the cost:

State ..... 19.67 x 3 = 59.01 = 59.01 = 42.34%
139.34

Interstate ..... 80.33 x 1 = 80.33 = 80.33 = 57.66%
139.34 139.34

The difference between 42.34 already allowed in item 2, and 19.67, is 22.67%, which is the extra cost, but this 22.67% is only of the total freight operating expenses, which equals 22.67% or 66.63% or 15.11% of all operating expenses, $8,078,807.55, or $1,220,707.82.

(*f*) Even if the extra cost should be ascertained upon a ton mile basis, there would be a large sum added to the deficit. According *the* Exhibit 36, the percentage of ton miles as between state and interstate is 91.33% and 8.67%, but as this was only for one month and upon an improper basis, the figures were by the state's expert reapplied as shown in Exhibit 36*a* par. — which shows interstate to be 89.38% and state 10.62%. Ascertaining the extra cost upon this basis, we have:

On the basis of 50% more:

State ..... 10.62 x 1½ = 15.93 = 15.93 = 15.13%
105.31

Interstate ..... 89.38 x 1 = 89.38 = 89.39 = 84.87%
105.31 105.31

3093 The difference between 15.13% and 10.62% is 4.51%, but this is only of all freight expenses, or of 66.63% of all expenses, or 3.01% of $8,078,807.55, or $243,172.11.

On the basis of twice the cost:

State ..... 10.62 x 2 = 21.24 = 21.24 = 19.20%
110.62

Interstate ..... 89.38 x 1 = 89.38 = 89.38 = 80.80%
110.62 110.62

The difference between 19.20% and 10.62% is 8.58%. This is, however, of all freight operating expenses, which is 66.63% of the whole or 5.72% of $8,078,807.55, or $462,107.79.

On the basis of three times the cost:

State ..... 10.62 x 3 = 31.86 = 31.86 = 26.27%
121.24

Interstate ..... 89.38 x 1 = 89.38 = 89.38 = 73.73%
121.24 121.24

The difference between 26.27% and 10.62% is 15.65%, but this is only 15.65% of 66.63%, or 10.42 per cent of $8,078,807.55, or $841,811.75.

3094 (*g*) For the purpose of comparison, Item 2, hereof may be considered upon a tonnage basis. Exhibit 36*a* shows the interstate tonnage to be 83.40% and state 16.60% the latter being 3.07% less than the percentage of state revenue, 19.67%, but this 3.07% is of 66.63% only 2.05% of all operating expenses, $8,078,807.55, or $165,615.55, so that the net result upon a tonnage basis would not substantially differ from that shown by adopting the revenue basis.

(*h*) By the foregoing, it will be noted that the difference in cost has only been applied to the operating expenses, exclusive of taxes and rentals. This was done so as to more readily compare with the state's figures, the state constantly eliminating in all its statements, taxes and rentals. The evidence is in favor of a large allowance to extra cost on account of taxes and rentals. The percentages already given would apply thereto, so that if there is found a percentage of extra cost, it could be applied to taxes aggregating $198,415.86 and rentals, $2,893,614.75. It will, however, be found unnecessary to consider this question, because irrespective thereof, a deficit exists.

3095 9. Item 2. Expenses as Affected by the Charge on Account of the Kansas City Bridge.

(*a*) There was charged to expenses in 1905 $550,000 to be used for replacement of the Kansas City Bridge, of which, of course, 13.11%, or $72,105 may be said to have gone to local expenses, making a difference of that sum. The theory of this charge was that it was fair to set aside each year to the expenses in each state a certain fund for the replacement of structures and equipment. The state's expert so states (Ev. Fisher,—. 1189-1196), but claims that as to the bridge such a charge ought to be extended over a series of years, although as to the equipment a similar charge was all right. There would be force in this view if the charge were systematically applied to each part of the road and equitably apportioned to the entire system. In practice, however, the charge has from time to time been made in different states and applied only to some particular structure in some particular state, instead of the whole system, or to the property in a state as a whole. The question, therefore, becomes one for determining what would be a fair allowance in a year upon such an account, nothing else having been allowed to any of the property, other than equipment upon any such theory.

(*b*) The $550,000 thus allowed is .049% of $11,170,838.16, the total expenses, including rentals and taxes, and .068% of $8,078,807.55 the expenses, exclusive of rental and taxes. This is all that for the entire state was in 1905 charged to replacement of way and structure. The amount is insignificant when the property is considered as a whole. From railroad experience, the expenditure was justifiable and in practice it is considered an operating expense.

3096 (*c*) There was charged upon the same account for equipment, $367,418.75, which the state's expert (Fisher, p. 1189-1196) conceded to be correct. A comparison of these allowances upon the basis of the value of the property as assessed by the

state board will show that the state has conceded the correctness as to equipment where the percentage is much larger than it is as to way and structure; thus the state's assessment of rolling stock as shown by the printed report of the State Board of Equalization for 1906 is as follows:

Amount.	Page of report.	Name of road.
$1,073,890.00	70	H. & St. J.
52,134.25	75	C. B. & K. C.
527,384.77	78	K. C. S. J. & C. B. & Branches.
261,027.70	85	St. L. K. & N. W. & Branches.
125,862.46	89	K. & W. & Branches.
58,300	92	Hopkins Branch.
34,210	94	St. J. & D. M.
20,940	95	Grant City Branch.
17,185	97	Leon Branch.
64,946.62	99	I. & St. L.
12,989	100	A. & N.
24,216.50	101	St. J. & Neb.
44,200	103	Old Monroe.
Total, $2,317,286.30		

Multiplying this by three as the board does to obtain the state's value of rolling stock, the result is $6,951,858.90. Of this, $367,418.75 charged to replacement fund and conceded by the state to be correct, is 5.29%. Obtaining from the same source the valuation of the roadbed, superstructures and buildings, we have this tabulation:

Amount.	Page of report.	Name of road.
$3,231,373	71	H. & St. J.
477,190	75	C. B. & K. C.
1,730,740	78	K. C. St. J. & C. N. & Branches.
1,889,080.63	85	St. L. K. & N. W. & Branches.
391,810	89	K. & W.
31,648.62	90	D. M. & K. C.
319,855	92	Hopkins Branch.
269,075	94	St. J. & D. M.
91,399	95	Grant City Branch.
304,312	97	Leon Branch.
98,530	99	I. & St. L.
89,548.20	100	A. & N.
33,730	101	St. J. & N.
232,180	103	Old Monroe.
Total, $9,190,471.45		

3097 Using the multiple of 3, there is obtained the valuation upon which the assessment was made of $27,571,414.35. $550,000 is but .2% thereof. It therefore plainly appears that the amount allowed on account of replacement fund for way and structure is far less in proportion than that conceded to be correct as to equipment.

3098 EXHIBIT 42a.

Shipments to and from the Kansas City Stock Yards.

(a) In Exhibit 1 all shipments to and from Missouri points and the Kansas City stock yards were treated as state freight, and the exhibit is respect to these earnings was conceded by the state's expert to be correct. In the preparation of Exhibit 36, one-half of this freight was treated as interstate and one-half as state, and then the result in ton miles attempted to be applied to the earnings as shown by Exhibit 1. For this, among other reasons, Exhibit 36 has been criticized as not being so representative of a year's business as to be properly applied to the figures given in Exhibit 1.

(b) Both the state and complainant have, for the purposes of this case, treated these shipments as state freight. The state in all its exhibits showing the alleged net earnings, has dealt with the state freight, earnings as shown by Exhibit 1, which included the live stock shipments to and from the stock yards. It was, therefore, supposed that both parties had adopted the theory that they were to be treated as state shipments, and no separate figures were kept of the amount of revenue therefrom. The facts have already been recited so that the court may decide whether as a matter of fact the business is state or interstate if the question be material and is presented by this record.

(c) But if they are not state shipments, the state revenue and percentage should be correspondingly reduced, and the revenue therefrom could not in any wise be affected by the law of 1905. In other words, it would, for the results of this case, be immaterial to the company whether they were or were not treated as state shipments; if interstate, the law of 1905 could not affect them.

3099 The position has, however, been assumed that they are state freight earnings, upon the theory that for the purposes of this case both parties so conceded.

(d) The entire revenue from all live stock shipments in the state aggregated $373,372.55 as shown by page 4 of Exhibit 1. For the purpose of this exhibit, and for the purpose of showing that the result could not be affected whether they were treated as state or interstate, it may be assumed that all shipments of Missouri live-stock were to and from the Kansas City stock yards. Exhibit 42 adapted to such theory would result in the following tabulation:

Item. 1. Earnings from state freight as shown by Exhibit 1...	$1,649,665.75	
Less live stock revenue....	373,372.55	
		$1,276,293.20
Which is 10.14% of all revenue, $12,584,607.64.		
Item 2. Less operating expenses on basis of revenue, i. e., 10.14% of all operating expenses, $8,078,807.55		819,191.09
Leaving		$457,102.11

Item 3. Less 10.14% of taxes, aggregating $198,-415.86	20,119.37
Leaving	$436,982.74
Item 4. Less 10.14% of rentals aggregating $2,893,-614.75	293,412.54
Leaving	$143,570.20
Item 5. Less diminution on all commodities except live stock (Ex. 1, pp. 2-4), $171,-122.07—$140,302.64 =	30,819.43
Leaving	$112,750.77
Item 6. Less extra cost of doing state business	$
	$

(*e*) If item 4 instead of applying the percentage to the rental, had applied it to the value of the property as fixed by the state
3100 board of equalization, $44,334,759.69, and 6% interest had been calculated thereon, the result would have been:

Amount of earnings left after deducting operating expenses other than rentals, as shown by item 3.	$436,982.74
Item 4. Less return at the rate of 6% upon the value of the property assignable to state traffic, or 10.14% of $44,334,759.69 or $4,477,-810.72, entire valuation upon which taxes are levied	269,732.68
Leaving	$167,250.06
Item 5. Less diminution on all commodities except live stock	30,819.43
Leaving	136,430.63
Item 6. Less extra cost of doing state business	$
	$

3101 EXHIBIT 43.

(*Comments on Complainant's Exhibit* 16*a*.)

Defendant's Exhibit 16 clearly stated that it was only a partial showing of the business of the Missouri Pacific Railway for the month of October, 1905, and the heading indicates that it was sup-

posed to cover about 90% of the State business and about 50% of the interstate business. The figures were not used in the Missouri Pacific case, because the showing for the entire month was complete when it was necessary to make up statements for the Missouri Pacific case.

A comparison of percentages of tons, revenue, ton miles, etc., with similar figures in Exhibit 36, in the Burlington case, would clearly be improper, for the reason that Exhibit 16 was only a partial showing, covering as stated above, about 90% state business and 50% of the intesrtate business.

A comparison of the revenue per ton means nothing, for the reason that the average haul on the Burlington is shown to have been greater than on the Missouri Pacific, and, as the revenue per ton per mile was approximately the same as on the Missouri Pacific, the revenue per ton on the Burlington was, necessarily, higher.

There is no reason why the revenue per ton mile should be exactly the same on the two roads. Neither is there any reason why the average haul should be the same. The Burlington has 345 miles of line between St. Louis and Kansas City, and between St. Louis and St. Joseph, 326 miles. The distance between St. Louis and Kansas City, by the Missouri Pacific is 283 miles. However, the statements in the Burlington case, which were based on Exhibit 16, are not necessary now to the case as we have the Burlington's showing for September, 1906.

3102 A comparison of Exhibits 16 and 27, in the Burlington case—the former being the partial showing on the Missouri Pacific for the month of October, 1905, and the latter the complete showing, is significant, and very valuable to us. The percentage of tons, revenue and ton miles changed, of course, because we had 100% state business, and 100% of the Interstate business, instead of 90% and 50%, respectively. The average revenue per ton changed only five and a fraction cents; the average revenue per ton per mile changed only one and a fraction mills, and the average haul changed only five miles in the case of interstate, and one mile in the case of state freight. This illustrates the point we have had in mind and have endeavored to make clear all the time, viz: that it made no difference whether September or October was 1/12 of a year's business, or whether it was 1/6 or 1/24, because we used only the average revenue per ton per mile shown by our statements, and, with those figures as a basis, found the ton miles of state and interstate freight in the year 1905 by dividing the earnings for that year, as reported by the companies, by our figures of revenue per ton per mile.

The last group of figures in Exhibit 16*a* tends to prove the correctness of our figures, rather than the contrary, for the reason that, if the showing on the Missouri Pacific for part of a month agreed with the Burlington showing for an entire month, it would be evident on its face out figures were wrong.

3103 EXHIBIT 44.

(*Comments on Complainant's Exhibit* 17*a*.)

Exhibit 17*a* refers to and criticises our Exhibits 17 and 18, and states that Exhibit 16, as well as anything based thereon, is valueless. Attention is called to the fact that neither Exhibit 17 or 18, nor anything prepared upon the same basis, was used in the Missouri Pacific case, and that it is fair to assume that such exhibits were there abandoned. It is of no importance now, but, as a matter of fact, they were abandoned, because in the Missouri Pacific case we had completed figures and a better basis upon which to work, and, instead of assuming certain percentages of cost, we used the actual operating expenses. But Exhibits 17 and 18 undoubtedly served their purposes in the Burlington case, and we can now afford to abandon them.

3104 EXHIBIT 45.

(*Comments on Complainant's Exhibit* 19*a*.)

Exhibit 19 was prepared for the purpose of showing that the percentage of operating expenses to gross earnings is less in case of freight business than in the case of passenger business. It is true that some of the miscellaneous earnings were divided on an arbitrary basis, but we thought this clearly appeared on the face of the exhibit. No attempt was made in this Exhibit to divide the operating expenses between state and interstate business, as that was not the purpose of the statement.

It is stated in the second paragraph that, in complainant's figures, which have been prepared on a revenue basis, freight has been treated independent of passenger and miscellaneous earnings, and only the freight portion of expenses has been used, and that in none of the subsequent exhibits offered by the State, have the Miscellaneous earnings been included, nor has any attempt been made to apportion passenger earnings between the State and interstate business, except on revenue basis. The party who wrote this, so thoroughly confused earnings and expenses, it is hard to tell what he meant, and it is not fair to assume that Exhibit 19 is abandoned. The exhibit serves the purpose for which it was prepared, and shows conclusively that, on the Burlington road in Missouri, the percentage of freight expenses to freight earnings is lower than the percentage of passenger expenses to passenger earnings. This as stated, is after dividing the miscellaneous earnings arbitrarily between freight and passenger, and using the operating expenses shown in complainant's Exhibit 6, which shows the division of the expenses between freight and passenger.

We have never admitted that the company was right in using in the division of the total operating expenses of all kinds of business, the percentage of state freight earnings to the gross earnings from

all kinds of business. On the contrary, we have always claimed that the freight business, as a whole, was the real money
3105 earner.

The figures in paragraph *c* show that, in our Exhibit 19, we did not assign enough of the miscellaneous earnings to the freight column.

Referring to paragraph *d* in which it is stated that we have used operating expenses of $4,678,346.90, and excluded $917,418.75 replacement fund, of which, only $550,000 in part, is challenged; our idea was to use the actual operating expenses, excluding all unexpended items, and it certainly cannot be claimed that our action was misleading. We have stated that Exhibits 37, 38, 39 and 40 were prepared solely for the purpose of showing what the results would have been, based upon certain assumptions, and that we did not consider that any of them was correct, so far as the assumption of additional cost were concerned.

In paragraph *e*, it is stated that the operating expenses had never been divided between state (evidently intended for freight) and passenger business, and that, hence, the only method of dividing the same is upon a revenue basis, and that when, in Exhibit 19, these expenses are based upon Exhibit 6, it is upon an arbitrary division having no warrant. It is a tremendous job to separate the operating expenses between the freight and the passenger business, and the companies would certainly not do it if it did not give them a better idea of the cost of the two classes of business than could be gotten by any other method. No one contends that the division of expenses between freight and passenger is absolutely correct, because there are certain common expenses which must be divided upon various arbitrary bases. But the idea that the freight business makes the money is probably as old as railroading itself, and Exhibit 19 serves to strengthen our belief in the correctness of that idea.

3106 EXHIBIT 46.

(*Comments on Complainant's Exhibit* 25a.)

It is true that Exhibits 25 and 26 were prepared upon certain assumptions adopted as the basis for arriving at the ton miles of state and interstate freight, on the revenue per ton per mile, shown by Exhibit 16, and to that extent only. It must be borne in mind that the various statements put in by us from time to time, have been submitted with the idea that they would throw considerable light on the subject, and there is no doubt that they have done so.

3107 EXHIBIT 47.

(*Comments on Complainant's Exhibit* 27a.)

Exhibit 27 in the Burlington case is the Missouri Pacific showing for October, 1905. The reliability of that exhibit is strengthened by the Burlington showing for September 1906, in that the

relations of things are pretty much the same in the two statements; the revenue per ton per mile, on state freight, is more than twice as much as on interstate freight, and the revenue per ton per mile on less than carload freight is many times as much as on carload freight.

The longer average hauls on the Burlington were somewhat of a surprise to us, but in reading over Mr. Sturgis' testimony, we found that he testified that, in his opinion, although the figures had not been worked out accurately, the average haul of state freight in Missouri was between 80 and 100 miles, so he split the difference and called it 90 miles, and that the average haul of all freight in Missouri, which had been worked out accurately, was, for the year 1905 134 miles. Exhibit 36 in this case shows average Burlington haul of state freight to be 81 miles and of all freight 128 miles. We do not have to depend on the Missouri Pacific's showing in the Burlington case, but, instead of being inapplicable, it appears that the Missouri Pacific figures, so far as revenue per ton per mile is concerned, could very properly be used in the Burlington case.

3108 EXHIBIT 48.

(*Comments on Complainant's Exhibit* 36*a*.)

Complainants' Exhibit 36*a* suggests that the month of September is not fairly representative of the entire year of 1905.

The tonnage of various commodities varies from month to month, and no one could reasonably expect that the number of cars of grain handled on the *Burlington system*, in September, *1906*, would be exactly 1/12 of the number of cars handled on the system in the calendar year *1905*.

Paragraph *c* of Exhibit 36*a* complains that by our Exhibit 36, livestock into Kansas City from Missouri points was treated as interstate business. We would have preferred to treat it as state business, as it would, undoubtedly, have tended to increase the revenue per ton per mile on state business, and to decrease it on interstate business, but, as — were informed that the unloading pens were in Kansas, and as we thought we had a sufficient agreement with the Burlington in regard to the matter, we put the livestock going into Kansas City into the Interstate business.

It now develops by the blue print attached to complainant's Exhibit 36*a*, that stock out of Kansas City, although loaded on the Missouri side of the line, has to pass through Kansas in order to get into Missouri. If we had the figure representing the earnings in Missouri on the livestock going into Kansas City, which was treated as interstate business, we could, of course, deduct it from the interstate and add it to the state figures, and as stated above, that change would necessarily operate in our favor, and would tend to explain the difference between the proportions of state and interstate business for the month of September, 1906, and the year 1905.

3109 EXHIBIT 49.

(*Comments on Complainants' Exhibit* 41.)

Referring to complainant's Exhibit 41, without taking the time now to analyse Mr. Gray's testimony, we may say in a general way that his figures are misleading, because they include the value of the terminal property. Complainant admits that our claim that the interstate freight is handled at terminals (and junctions) oftener than at the beginning or end of its journey, and that these handlings may occur in the state of Missouri is doubtless true, but they state that the number of handlings is not nearly so numerous as in the case of state freight. Their reasons for that statement do not appear to bear out their conclusions. They say that there are several hundred stations, between which state, less car load freight, must be transported, and that these stations are located upon branches remote from each other, and located to serve their districts as an inlet and outlet, without respect to a continuous line, or convenience of interchange between lines.

We know that by far the larger part of the business is interchanged between the large commercial centers and interior towns and as these commercial centers in Missouri are located upon the eastern and western borders of the state, nearly all of the interstate freight passes through them in getting in and out of the state.

In connection with the list of stations, covering the last half of sheet two and the first half of sheet three of Exhibit 41, we should know what the interchange between these points amounts to. They have evidently picked out points between which a number of handlings would occur, but it is fair to assume that they have not the remotest idea what the movement between these stations amounts to. Wherever both of the points named are interior points, what they say about the handling of state shipments would not apply, except probably in rare cases, to interstate business, but wherever
3110 Kansas City, St. Joseph and St. Louis are mentioned, the handlings in Missouri from those points would be just as frequent *as* inter-state business as on state business.

Complainant states that the ton mile basis is the worst possible one, because it entirely ignores all terminal or junction handling, expenses, etc. We claim that it is absolutely necessary to treat the whole matter on an *average* basis, and that when we double the cost per ton per mile of station, yard, train and engine service, on the state business, we have made full allowance for the extra cost of these classes of service, whereas, we have made no deduction from the cost of state business to cover various items of expense which apply more proportionately to competitive business than to state business.

On sheet four, while attempting to justify the revenue basis as the proper one, for the division of expense, they say: "The revenue basis does, therefore, allow in part for the additional expense of terminal and junction handling incident to state freight, but the allowance is not sufficient for even the two terminals which must be encountered, and allows nothing for the numerous handlings en

route." This shows the weakness of the revenue basis, as the only possible justification for it would be that the traffic men who have charge of the rates were familiar with the cost of doing each class of business between each station and every other station, and fixed the rates so as to provide a margin of profit between that cost and the revenue to be derived from the shipment. The traffic men themselves (see testimony of Darius Miller, first vice president of the Burlington road, and others) admit that they do not fix the rates, but that they are fixed by commercial and other conditions.

3111 Complainant states that the underlying principle in fixing of rates is primarily the difference in expense of handling and hauling. This is true, and while the roads are wholly unable to fix rates which will produce a certain margin of profit, their efforts to cover the additional cost are reflected in the higher revenue per ton per mile on short hauls than on long haul business, and on less than carload than on carload business. If the roads had said that they were compelled to handle a great deal of competitive business at a very small margin of profit, in order to get funds with which to keep up and improve the roadway and equipment, and that they really made their interest and dividends out of what they have always called their local business,—that is, the business which they control, and on which they can charge higher rates,—they would have stated the case correctly.

The ton mile basis is the best, because it is always a ton of revenue freight one mile, and it enables us to compare the cost of one thing with the cost of another. Using the ton mile as a basis, and doubling and trebling certain portions of the operating expenses, it still leaves us with less than double the cost per ton per mile of one class of freight, on the other class.

Exhibit 36 shows that there were four times as many tons of the second class of interstate business as of state business, and almost seven times as many ton miles of the second class of interstate business as of state business. We know that every agency station in the state, and nearly every flag station, handle both classes of business. The average haul of state freight, according to Exhibit 36, was 81 miles, and the average haul of interstate freight was 135 miles. This means that the whole machinery of the road was employed in handling the state freight an average distance of 81 miles, and interstate freight an average distance of 135 miles, or a

3112 difference of 54 miles, and it is not possible that this additional service could have been given to the interstate freight at a total cost per ton per mile greatly less than the service given to the state freight.

Near the bottom of the 6th page of Exhibit 41, it is stated: "It is a fact that in working up any set of figures, whether for the whole or part of a road, it will be found that the earnings per ton mile, computed under the two theories, bear a certain relationship, as say, two to one, but while that relationship holds good on the figures today, it may not on the figures to-morrow; while it may hold good on one road, it may not on another (and there is no reason why it should)." In spite of this statement, the complainant has tried to

prove out Missouri Pacific and Burlington showing for October, 1905, and September, 1906, wrong, because they did not exactly agree in every respect.

Is this not the best argument against the revenue basis? Certainly a change in the relationship of the revenue per ton per mile on the two classes of business does not change the cost of one class, as compared with the cost of another.

3113 The "Annual statements of the Chicago, Burlington, & Quincy Railroad Company to the Railroad Commissioners for the years ending respectively, June 30th, 1904, June 30th, 1905, June 30th, 1906," referred to in the certificate of the Trial Judge are set out in the foregoing exhibits.

3114 The evidence taken before the Master in cause #2995, The Missouri Pacific Railway Company vs. John A. Knott, et al., and referred to in the certificate of the Trial Judge as "Four volumes returned designated as #2995, Missouri Pacific, marked respectively I to IV, inclusive" is in the words and figures as follows, to-wit:

3114½ MISSOURI PACIFIC CASE.

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3115 THE MISSOURI PACIFIC RAILROAD COMPANY, Complainant,
vs.
HERBERT S. HADLEY, Attorney General of the State of Missouri, et al., Respondents.

ST. LOUIS, MO., *Sept.* 7, 1906.

Pursuant to notice heretofore given on the — day of ——, 1906, the above mentioned cause came on for hearing before the Special Master, at the Federal Building, in the City of St. Louis, Missouri, on the 7th day of September, 1906, whereupon the following proceedings were had:

The MASTER: What have counsel for the Missouri Pacific Railroad Company to say?

Col. CLARDY: The same entry that has been made in the Wabash case may be entered in this case.

The MASTER: It is understood that after the completion of the Wabash Company case then will follow immediately the hearing of the iMssouri Pacific Railroad Company?

Mr. HAGERMAN: What does your Honor mean by "immediately"?

The MASTER: The memorandum of the adjournment will show that a notice will be required.

Mr. HAGERMAN: Because it is not always that these gentle-
3116 men can have their witnesses ready at a moment's notice.

Thereupon the further hearing in the case of the Missouri Pacific Railroad Company is continued, subject to notice by the Master to resume the case.

3117 MISSOURI PACIFIC RAILWAY COMPANY, Complainant,
vs.
HERBERT S. HADLEY, Attorney General of the State of Missouri, et al., Respondents.

Parties appearing by counsel, by agreement it is ordered that the hearing of this case be set for Monday, January 14, 1907, at the Federal Building in the City of St. Louis, Missouri, at which time and place all parties concerned are required to be present.

ST. LOUIS, MISSOURI, MONDAY, *January* 14, 1907.

Met pursuant to adjournment as above on Monday, January 14, 1907, at ten o'clock in the fore-noon, at the Federal Building in the City of St. Louis.

Present: Mr. M. L. Clardy and Mr. Frank Hagerman, counsel for the Complainant.

Mr. Herbert S. Hadley, Mr. John Kennish, and Mr. S. B. Ladd appeared in behalf of the Defendants.

The following proceedings were had:

W. C. STITH, a witness of lawful age, being duly produced, sworn and examined, on the part of the Complainant, testified as follows:

Direct examination.

By Mr. M. L. CLARDY:

Q. State your full name.

A. W. C. Stith.

3118 Q. What is your business?

A. Freight Traffic Manager of the Missouri Pacific and the St. Louis, Iron Mountain and Southern Railway.

Q. How long have you held that position?

A. Since December, '99.

Q. When did your connection with that railway company begin?

A. My original connection with the Iron Mountain Railway began in August, 1877, and I have been with these companies continuously, with the exception of two years 1890 and 1891.

Q. Did you have any connection with any other railway company prior to that time?

A. Not prior to that time but during that period, in the years 1890 and 1891, I was the General Freight Agent of the Kansas City, Fort Scott, and Memphis Railway, at Kansas City.

Q. What positions have you held in this company? What was your first position?

A. I was messenger boy in the general freight office. I have held practically all of the positions in the general freight office of this company from that time up to the one I now occupy.

Q. What were they?

A. I have been Rate Clerk, Chief Clerk, Assistant General Freight Agent from 1886 to 1889; and on December 1, 1890, I was General Freight Agent of the Kansas City, Fort Scott & Memphis Railroad, continually with them for two years. I returned to the Missouri Pacific and Iron Mountain as their General Freight Agent on

3119 the first of January, 1892, and continued in that position up to December, 1899, when I was made Freight Traffic Manager, in which position I have since continued.

Q. Your connection has been exclusively with the traffic department?

A. With the freight traffic department exclusively, yes, sir.

Q. Have you had any experience in the making of rates?

A. Yes, sir.

Q. On what principle, Mr. Stith, are freight rates made?

A. The theory upon which the rates are made is, from the standpoint of a railway officer, one that would first bring a reasonable compensation for its service and at the same time be such as would develop the country served by the carrier.

Q. What are some or, if you can give them, all of the considerations that enter into the making of rates? You have given some.

A. There is the mileage, the volume of traffic—that is, the volume in which it moves or can move—the character of the busi-

ness as to its liability to damage from transportation; the character of the business as to ability to load to maximum carrying capacity of the car; the question of market competition; the question of rail or water competition; and frequently the question of wagon transportation enters into the making of rates.

There are no two cases that in my judgment are exactly similar. There is always some different circumstance which comes in
3120 to individualize almost every case. But, as a general proposition, the considerations I have stated are among the principal ones.

Of course one feature of transportation service is the direction in which your traffic moves. You may have the movement of business, a certain class of business that moves in the direction of your heavy traffic. You may have your trains so full of that sort of traffic that it will be influential in making a greater or less rate on some additional freight you will have to carry on those same trains.

It frequently occurs that the reverse of that is the case. You may have empty cars returning, and that might be and undoubtedly would be a consideration in making a freight rate to move traffic in the direction of that empty car movement. Then again the question of power is another important factor.

Q. By that you mean what?

A. Motive power. That is almost similar in character to the movement of cars. If you have a heavy movement of business it is supposed to take up your power going in the direction of your traffic, and you must return that power to the point from which it started. If it is returnable with light loading that might influence the making of a rate to force the movement of business to fill in trains that could be moved with the returning of that power to its home, so to speak.

Q. Is the making of rates attained with difficulty or not?

A. Always—I have found it so.

Q. You have a map there of the Missouri Pacific Railway?

3121 A. Yes, sir.

Colonel CLARDY: I will offer in evidence this map as Complainant's Exhibit 1.

The map referred to is in the words and figures following, to-wit:

3122 Q. This is what is called a "system map": It embraces not only the lines in Missouri but elsewhere?

A. This is the map of the so called Gould System of Railways. It includes the map of the Missouri Pacific and Iron Mountain Railways in Missouri with all the other roads.

Q. Other roads outside of the State?

A. Yes, sir.

Q. The red lines are the Missouri Pacific?

A. Yes, sir. That is, the red lines east of Pueblo and north of the Arkansas and Oklahoma State lines are Missouri Pacific.

Colonel CLARDY: I am only offering this map so far as the Missouri Pacific Railway Company is concerned.

Q. Those are red lines?

A. The red lines in Missouri are the Missouri Pacific.

Mr. HAGERMAN: It is all part of the Missouri Pacific Railway, the red lines extending to Pueblo and north of the Arkansas and Oklahoma lines?

A. There is a little of this that is Cotton Belt. All the red lines in Missouri west of St. Louis and west and south of Jefferson City are Missouri Pacific Railway.

Mr. CLARDY: What is the principal line of the Missouri Pacific in Missouri?

A. It is the main line between St. Louis and Kansas City.

Q. What is the longest line?

A. You mean within the State?

Q. Yes.

3123 A. The line from St. Louis to Grand Falls, south of Joplin. That is our maximum mileage.

Take the line from St. Louis to Jefferson City, then to Pleasant Hill, and then down to South Falls is the longest line in the State.

Q. What is the distance?

A. To Joplin is 382 miles.

Q. How much further does it go?

A. That short line is only a few miles south.

Q. What is the distance on the Missouri Pacific from here to Kansas City?

A. 283 miles.

Mr. HADLEY: You show here on this map "proposed lines."

Mr. HAGERMAN: Probably the better way will be to show that the red line with white spaces between from Malden down to Springfield, is not yet constructed.

The WITNESS: Down in the key to the map it is explained that those dotted lines are simply proposed lines and not constructed lines.

Mr. CLARDY:

Q. This line to Kansas City you say is 283 miles?

A. Yes, sir.

Q. That is the direct line. Now what other line diverges and forms a part of the Missouri Pacific? At what point and through what territory does it go?

A. Take the first point of divergence west of St. Louis which is Jefferson City. They have a line south to Bagnell.

3124 Q. How far is it to Bagnell from where it leaves the Missouri Pacific?

A. It is about 40 miles, maybe more.

Q. Then where is the next?

A. The second line from Jefferson City is the so-called "River Division" which extends in a westerly direction up through Boonville, Lexington, to a point just east of Independence.

Q. It connects there with the main line?

A. Yes, sir. The next lines diverging from the main line are

those of the so-called Boonville Branch, extending from Tipton south to Versailles from Tipton and north to Boonville.

Q. What is the distance?

A. I have not those distances in mind, Mr. Clardy.

Q. Would not the record show?

A. No, sir, this record does not show. I should say it is about *about* 50 or 60 miles.

Mr. CLARDY: We will supply those distances.

A. The next line diverging from the main line is the Sedalia, Warsaw & Southwestern from Sedalia south, and the Lexington Division from Kansas City up through Sweet Springs.

Q. What is the distance of that old Sedalia and Warsaw?

A. I think about 60 or 65 miles. Those distances I can give you accurately from our records but I cannot give them to you from memory.

Mr. HAGERMAN: Suppose you have a table made up and turn that over to the Master showing those distances.

3125 A. I will be very glad to do that. I can send for a document that will give that information. (After consulting books.) I omitted these short lines around St. Louis. They are comparatively small lines, Oak Hill line and the Creve Cœur line. The distance from St. Louis to Jefferson City is 125 miles. Jefferson City to Bagnell is 45 miles. The distance from Tipton to Versailles is 18 miles. The distance from Tipton to Boonville is 26 miles. The distance from Sedalia to Warsaw is 42 miles. The distance from Sedalia to Myrick which is a junction of that Lexington Division is 57 miles. Myrick to Independence is 32 miles. The River Division leaves the main line at Coal Junction which is a short distance west of Jefferson City. The distance from Coal Junction to Boonville is 41 miles. From Boonville to Myrick is 77 miles.

Q. Are there any other lines diverging between St. Louis and Kansas City or Jefferson City and Kansas City?

A. In the immediate vicinity of St. Louis is the Creve Cœur line which extends from Lake Junction to Creve Cœur a distance of 11 miles. There is the Kirkwood Branch that extends from Kirkwood, Missouri, to Carondelet, 12 miles, connecting with the Oak Hill Railway at that point. Diverging from the main line at Pleasant Hill is the L. & S. Division. Pleasant Hill is 61 miles west of Sedalia. That line runs in a general southerly direction and terminates at a point called Grand Falls, just below Joplin.

Q. That is the line over which the traffic from St. Louis reaches Carthage and Joplin?

A. Yes, sir.

3126 The MASTER: And the distance from Pleasant Hill to Grand Falls I think you have n-t given.

A. No, sir, not yet. I will have to figure that out. The distance from Pleasant Hill to Granby, which is really the furthest distance we have, being further than Grand Falls, is 138 miles.

Mr. CLARDY:

Q. How far is Granby from Joplin?

A. Granby is 28 miles from Joplin. The line diverges at Webb City and the westerly branch goes to Grand Falls and the easterly branch goes to Granby.

Q. Is there any considerable traffic between Carthage and Joplin, Granby and St. Louis?

A. Yes, sir.

Q. Over the Missouri Pacific Railroad?

A. Yes, sir, traffic of a general character, merchandise from St. Louis to those points and the movement of the products of that section of the country into this market.

Q. What is the character of the traffic moving from those points to St. Louis or Kansas City?

A. Some agricultural products and the products of the mines; stone, lime, some stock but not very much stock from those points.

Q. Are there any other lines between Pleasant Hill and Kansas City?

A. Yes, sir. The Rock Island——

Q. I mean of our own.

A. No, sir, not of our own.

Mr. HADLEY: There is a little divergence there at Lake City: What is that?

3127 A. That is a trackage arrangement in there with the Santa Fe Railroad in which they make a detour and it is shown in that way to indicate a usable line. It is a line that is used.

Mr. HAGERMAN: Is it your line or the Santa Fe?

A. The Santa Fe.

Q. Over which you have some running arrangement?

A. Yes, sir.

Mr. CLARDY:

Q. That is shown there on the map?

A. Yes, sir, it is shown here as a detour line.

The MASTER:

Q. I observe on this map red lines extending from the main line between Pleasant Hill and Joplin, one running from Monteith to Rich Hill, Nassau and Carthage: Do those lines running in a westerly direction from those points belong to the Missouri Pacific system: You have not mentioned those yet?

A. No, sir, I have not mentioned those because they asked me some other questions that headed me off. The line diverging from the L. & S. Division running from Monteith to the State line is a part of the Colorado and Pacific Railway, as I understand. Then the line from Rich Hill to the State line down to and following the Fort Scott, and then west. The line from Nassau in a northwesterly direction to about Mindon. Then at Carthage City a line up to Asbury; and at Webb City a line up to Oronogo. And the two lines which I have already described, one leading to Grand Falls and the other leading to Granby.

3128 Mr. CLARDY:

Q. What is the mileage of the Missouri Pacific Railway in Missouri?

A. Including the terminals and part of the side-tracks, 974 miles.

Q. What other lines of railway reaches that southwestern part of the State from St. Louis?

A. The St. Louis and San Francisco Railroad.

Q. What is the general route of that road?

A. The general route is in a southwesterly direction. They have practically a direct line through Springfield and Aurora to Monett, at which point there is a branch which goes up to Carthage and a little further west a branch up to Joplin.

Q. Do you know the distance by way of the St. Louis and San Francisco Railroad from St. Louis to Joplin?

A. Their Joplin mileage is 311 miles. The Missouri Pacific mileage is 382.

Mr. HAGERMAN:

Q. A difference of 74 miles?

A. A difference of 71 miles.

Mr. CLARDY:

Q. What other roads connect Kansas City and St. Louis beside the Missouri Pacific?

A. There is indirectly the Frisco line—I am taking the most southerly routes—it is a line through Kansas City to Springfield and Springfield to St. Louis. The next might be said to be Rock Island. In part the M., K. & T., the Missouri Pacific, the Wabash and the Alton and the C., B. & Q.

Q. You say the Rock Island: Do you mean the St. Louis and Colorado?

A. I mean the Chicago, Rock Island and St. Louis. It is
3129 the old St. Louis, Kansas City and Colorado road with the lines they have built within the last two or three years, extending from St. Louis to Kansas City.

Q. West and south of the Missouri Pacific Railway?

A. It is south of the Missouri Pacific Railway after it gets west of Union.

Q. It crosses the Missouri Pacific just beyond Union?

A. Yes, sir, at Labadie.

Q. Can you give the distance on other lines between St. Louis and Kansas City—or I will say can you give the distance of the Wabash?

A. The distance of the Wabash, as I recall it, is 272 miles, and for the purpose of making rates the roads have got to recognize the mileage from Hannibal to Kansas City, which is 199 miles, whereas our Missouri Pacific distance is 283 miles from St. Louis to Kansas City.

Q. Explain why that road from Hannibal to Kansas City enters into the rate making from St. Louis to Kansas City?

A. The Wabash uses the M., K. & T. line.

Q. What line is that from Hannibal?

A. It is the line, as I remember it, of the Wabash Railroad. It is the line of the M., K. and T. road. The Wabash Company in handling business use the M., K. & T. from Hannibal to Kansas City, handle it from Hannibal to Moberly and from Moberly to Kansas City on their own line. They have some long standing arrangement for the use of that line to connect up their line east of Hannibal. It has been in effect a great many years.
3130 In making the rates they have always used that mileage as their own.

Now that compels all of the other lines which handle traffic between so-called Mississippi River points from Carondelet as far up as North Dubuque to the Missouri River cities, Kansas City to Omaha, to be limited as to the measure of rates by the rates which are found across the State of Missouri from Hannibal to Kansas City.

Q. That is the shortest line, is it?

A. Yes, sir, that is the shortest line.

Q. What is the universal practice——

A. Short line to short line makes the rate.

Q. So whatever rates are put in by the Wabash Company must be put in by the other roads?

A. If they desire to engage in the traffic, yes, sir.

Q. Else they get no traffic?

A. Yes, sir, they get no traffic.

Q. I mean of course in this instance. The line of the Wabash proper you have given as 277 miles?

A. That is my recollection.

Q. There is a difference between that and the Missouri Pacific of how much?

A. About six or seven miles.

Q. What is the mileage of the Chicago & Alton, about?

A. It is longer than either the Missouri Pacific or the Wabash as I recall.

Q. And the Burlington?

3131 A. Is also longer.

Q. That is from St. Louis?

A. Yes, sir.

Mr. HADLEY:

Q. Did I understand you Mr. Stith to testify that the distance from Hannibal to Kansas City via the Wabash was 199 miles?

A. The short line mileage from Hannibal to Kansas City, the M., K. & T. and the Wabash via Moberly is 199 miles.

Mr. CLARDY:

Q. What would you say with respect to the existing rates on the Missouri Pacific Railroad in Missouri as to their reasonableness or unreasonableness—existing rates I mean.

A. The existing rates of the Missouri Pacific Railway Company in Missouri are the rates which were made by the State Board of Railroad Commissioners. I think promulgated on March 1, 1904, with the exception of one or two commodities, upon which the Board of

Railroad Commissioners, after the publication of that tariff, took up and put in force the former statute maximum rates. I have particularly in mind the rates on watermelons.

Q. Perishable products?

A. The commissioners' tariff was made after an extended consideration by them of the conditions applying in the State, after conferences with the Railroads and the commercial organizations and a comparison of the rates with those in other sections of the country and especially the adjacent States. And it has been my
3132 opinion that they were reasonable, fair rates, equitable rates.

Q. Have you an opinion as to whether they are relatively reasonable.

A. My intention was to cover that point and to say that in my judgment they are not only reasonable in themselves but relatively so.

Q. And what would you say as to whether they discriminate either against commodities or localities?

A. I think it is a very equitable adjustment both as between communities, because it is a mileage tariff, and I think the adjustment is also a reasonable one for the commodities that are moved under it.

Q. I am going to ask you to look at Page 11 of this bill in this case, which has the new statute printed on it.

In order that it may be before his Honor I will ask you to state, commencing on Page 11, what class D embraces.

The MASTER: That refers to the Act that is here in question, this class D that is referred to on Page 11; it has reference to the former statute and also the present law?

Mr. CLARDY: The present law does not undertake to change the classification?

A. Class D comprises all grain in carloads. Class E comprises flour in lots of 50 barrels or more. Lime in lots of 24 barrels and more. Class F comprises salt in lots of 60 barrels or more. Cement, water lime and stucco in lots of 24 barrels and more. Class
3133 G comprises lime, laths and shingles in carloads. Class H comprises live-stock. Class I comprises agricultural implements, furniture and wagons.

Q. Stop there. Class J is not affected by this law?

A. No, sir, that is as far as this law goes.

Q. You observed that upon each one of these classes down to and including class G we have a uniform rate except as to class D, for the first 25 miles we have five cents for one hundred pounds, and one-half a cent for each subsequent 25 miles?

A. Yes, sir.

Mr. HADLEY: If the Court please, according to the provisions of Section 1193 there is a change in the classification. It does not change the commodities but the weights in the classification. Class D in the Act of 1905 provides rate for carloads of forty thousand pounds. While class E in Section 1193 classifies freight and those commodities in smaller packages and so on.

The WITNESS: If I may be permitted to explain, the difference between those two propositions is that Section 1193 was passed a good many years ago, when the carrying capacity of the car was very much less than the present car. Consequently they fixed the minimum at much lower figure than they do in the 1905 Law. The minimum here which I have not read are provided as to each one of these classifications in rates. For instance class D in carloads of forty thousand pounds the minimum weight is under the 1905 Law. Whereas Section 1193 is I believe minimum twenty thousand pounds. Am I correct about that? (Witness examines book.) There is no minimum weight provided here but that is the way it was
3134 considered at that time, because of the carrying capacity of the car.

Mr. HAGERMAN: That is to say, the general class of equipment that was in use at the time of the original Act was very much smaller in capacity than the cars of the present day?

A. That is it.

The MASTER: Were the minimum amounts to be carried under these classifications affected by any of the railroad commissioners anterior to the passage of this Act of 1905?

A. Yes, sir, by the acceptance of the Board of Commissioners of the rules which had been fixed from time to time by the Railroad Companies making that part of their tariffs. For instance, they had adopted a higher minimum to which the carload minimum must comply, than was in effect at the time Section 1193 was brought into existence.

Q. How does the amount established by the Board of Commissioners compare with the rates of the statute in its various classifications?

A. The minimums that are fixed in this statute, with the possible exception of the twenty-four thousand minimum, are practically the same as are current in the commissioners' tariffs. That is according to the best of my recollection.

Mr. HAGERMAN: Let me see if I understand you: Prior to the passage of the Act of 1905, has the capacity of the cars increased, as it was put in use by the railroad, the matter was practically dealt with by the Railroad Company in their tariffs, describing the
3135 minimum capacities, and the Board would vary their rules from time to time in fixing their maximum?

A. Yes sir.

Q. And this Act of 1905 comes along and fixes as part of the statute the minimum capacity of the cars?

A. Yes sir.

Mr. CLARDY: What I meant to ask was this: What do you think of the principles of a statute which fixes a given and a larger amount for a distance of, say, 25 miles as this has fixed it, and then a smaller amount for each subsequent 25 miles, an inflexible amount?

A. My idea about that is that if your basis, that is, your beginning number, your basic figure, is the proper measure—and by that I mean ample to provide for your terminal expenses, which are practically the same whether you have a long or a short haul, that

your road service might be represented by the figures for the additional miles that the shipment is handled.

Q. Irrespective of the distance?

A. Irrespective of the distance. Now it has resolved itself down to an almost universal practice that the rate per ton mile, which of course includes the terminal service, is less for a longer than for a short haul. That, however, is governed by a good many considerations; frequently competitive conditions that might not creep in in fixing a statute rate, which is an inflexible rate. But, as a general rule, I would say that if your first or basic figure is ample to provide a reasonable terminal compensation, for your short haul,
3136 remembering that on your short haul you have got to have two terminals as well as on your long hauls, it would not be objectionable making the same increase for the increasing mileage clear to the end of your road, two, three, four or five hundred miles.

Q. You see no objection to the principle upon which this Act has been constructed?

A. No sir.

Q. Although this is the first time in the history of the State that we have had a statute of this sort. Heretofore the rates have been graduated?

A. Yes sir, graduated at least for the short distance.

Q. This five cents per hundred for 25 miles is intended to pay for the straightaway haul of 25 miles, and what else?

A. All the terminal expenses at the receiving point as well as the delivering point.

Q. In other words, it is intended to cover two terminals and the 25 mile haul?

A. Yes sir, two terminals and the intermediate haul.

Q. Turn to the next page of the bill, down near the bottom, and after the word "class" read what is on the bottom of that page?

A. (Witness reads:) "In computing the rate of freight according to the provisions of this article, distance shall be computed from the point it is received to the point of destination in the State, notwithstanding it may pass from one road to another".

3137 Q. What would you say to that provision which gives to the first carrier if he carries it 25 miles, or perhaps less, the two terminal charges, and gives to the second carrier none?

A. I should say that provision was very unfair. It would require—take as an example a shipment that might be given to the Missouri Pacific for transportation to a point on the Frisco road, the combined distance of which is within the 25 mile haul. There would be two terminal services on the part of the Missouri Pacific, that is, the terminal service such as receiving, loading, billing, forwarding the freight: and the terminal service that is incident to the interchange of that shipment with the Frisco road. For which service the Missouri Pacific road, under this law, as I understand it, would be privileged to charge the full amount allowed for the first 25 miles. They would then tender this shipment to the Frisco road, and that road would incur the terminal charges, or the labor

cost, or whatever you may call it, of receiving that car from the Missouri Pacific and forwarding it the intermediate road haul to the point of delivery, and then the expense of delivering the shipment to the consignee, for which they would get nothing, because there would be nothing of the rate left to give them.

Q. I want to call your attention to one instance: We have a station named Dundee—do you remember it—26 miles west of Pacific?

A. Yes sir.

Q. Suppose a carload of grain is shipped from Dundee to
3138 a mill at Alconda on the Frisco, Alconda being I believe 24 miles from Pacific. The Missouri Pacific would get its first 25 mile haul, and it would then be within a mile of Pacific, and then it would get its part of the rate from there to Alconda which would be one twenty-fourth: Now, isn't it true that the Missouri Pacific would get $20.00 out of the 5 per cent, and 8⅓ cents for the extra mile, making the 26 miles; and the Frisco would get $2.00 less 8⅓ cents for the two handlings and the 24 mile haul?

General HADLEY: I object to that question, because it asks this witness to place a legal construction upon the language of the statute. There is nothing in the statute that has provided how the railroad companies shall divide the charges authorized to be charged for the shipment for a certain number of miles. It simply provides what shall be paid by the shipper. To ask this witness how it shall be divided between the railroads is to ask him whether the law makes provision for division among the railroad companies.

Mr. CLARDY: I do not mean to ask a legal question, but I do mean to put the construction upon the statute, which I think the courts are bound to put upon it, which is that this means what it says and the railroad company would be justified in exacting just the rates it provides they may exact, and I may add none other, unless the rates are lower.

The MASTER: I think it is perfectly competent to illus-
3139 trate the effect of the Act if put into force, by concrete illustrations.

General HADLEY: I don't object to that. But assuming the Act says something which we say it does not say. It does not say how it shall be divided among the railroads: I simply want to call attention by my objection to the difference in construction of this Act, and the fact that the witness is placing a legal construction upon it in the example he is giving.

The MASTER: As a matter of course, if the question should imply a misconstruction of the Act, it would affect the conclusion reached under it, and it would be for the court to determine whether the question does imply a misconstruction of the Act.

Mr. LADD: Is that anything new in the Act of 1905?

Mr. CLARDY: I will say that was in the law of 1903, but no attention was paid to it by the railroad companies. It was absolutely discarded. It was put in here only because the legislatures did not understand its effect as applied to the new Act.

General HADLEY: It was in the Act of 1875.

Mr. CLARDY: No sir, I don't think so. It was in there quite early, but not that early. That makes no difference. It has always been disregarded until the time has come when it cannot be disregarded any longer. These are the maximum rates. We cannot go beyond them. Heretofore the maximum rates have been fixed so high it was not necessary that the railroad should put in the highest
3140 amount fixed by the statute.

A. Your first mileage was Missouri Pacific mileage of 26?
Q. Yes.
A. And the second was 24?
Q. Yes.
A. That makes a total of 50 miles.
Q. Yes.
A. Under the understanding I would have of this, we would have to quote the shipper at Dundee, who came to us for a rate, a rate for not less than 50 miles; that is the combined distance of the two roads forming this line. The Missouri Pacific would be privileged to charge 5 cents for the first 25 miles and then they would be privileged to charge one-half cent per hundred more for the——
Q. I have taken 40,000 pounds?
A. Five cents for 40,000 pounds would be $20.00 and one-half cent per hundred on 40,000 pounds would be $2.00. That rate would be $22.00.

Mr. HAGERMAN:

Q. The Missouri Pacific end, or the whole of it?
A. That might be the whole of it, and that can be the Missouri Pacific's proportion of it, because they are privileged to charge a half cent a hundred for any fractional part of the second 25 miles.

Mr. CLARDY:

Q. They do charge for one mile?
A. Under this law, as I understand it, we would have to charge, or we would be permitted to charge one half a cent for the
3141 fraction of the second 25 miles, which would absorb all of the rate and leave nothing for the principal line.
Q. I do not put that construction upon it hardly, but I construed it——
A. At any rate the Missouri Pacific would be entitled to 5 cents for the first 25 miles of its haul and on the best basis it could get out of the balance, between them and the Frisco road, for the remaining service they performed, which would be, you might say one twenty-fifth of the balance of the rate, which would be $2.00 a car. It would be one twenty-fifth of $2.00 a car. It would leave the Frisco line certainly an unremunerative compensation.

Mr. HAGERMAN:

Q. Let us get that in figures. The total charge would be how much?
A. $22.00.

Q. The Missouri Pacific would get how much?
A. $20.00 for the first 25 miles.
Q. And then what?
A. One twenty-fifth of the $2.00.
Q. And the Frisco would get 24/25 of the $2.00?
A. Yes sir. There are numberless instances of that kind.
Q. To make one thing plain that you said, so I can get your meaning, it is possible to construe that Act not as liberally as that to the Frisco road, by taking it that the Missouri Pacific for
3142 carrying one mile of the second 25 miles could eat up the whole $22.00?
A. Yes sir, the whole extra $2.00.
Q. And that would leave nothing for the Frisco?
A. Nothing for the Frisco. It is a very unjust, unreasonable provision.
Q. Go on with your statement.
A. Take a shipment from Clinton, Missouri to California, Missouri. Clinton is on the M. K. & T. and California is on the Missouri Pacific. That interchange would be made at Sedalia. The total distance is 78 miles. Under this law the rate would be 6½ cents per hundred.

Mr. CLARDY:

Q. Is that consolidated mileage 78 miles?
A. Yes sir, consolidated mileage. Or $15.60 for a car of 24,000 pounds. The M. K. & T., which is the originating line, would be entitled to 40 miles, the mileage they haul the car, which would be 5½ cents per hundred, or $13.20, making the Missouri Pacific's half for participating in the through haul for substantially the same distance, that is 38 miles, only one cent per hundred or only $2.40 per car of 24,000 pounds.
The same kind of an example could be cited with reference to implements or grain or any of the commodities or articles that are provided for under this law.
Q. Give any instances that occur to you?
A. They are all just alike. It is simply substituting other
3143 points and other commodities, but the application is exactly the same; and the result is exactly the same. The first line practically would absorb the great bulk of the earnings.

Mr. HAGERMAN:

Q. That is where it runs over more than one line, or the principle would work out one way or the other in favor of one road or the other?
A. Yes sir, as against the other.

Mr. CLARDY:

Q. Assuming a less haul than 25 miles as the haul of the first carrier; assuming that this traffic originates, say, at Gray's Summit, 4 miles beyond Pacific, what would the Missouri Pacific get?

The MASTER:

Q. Destined to what point?

Mr. CLARDY: Destined to some point on the Frisco road leaving the Missouri Pacific at Pacific.

A. If you take the same case you cited before, only changing the Missouri Pacific to four instead of six, and leaving the Missouri Pacific mileage the same, that would be a total mileage of 24 miles, and find your rate for the distance. But the Missouri Pacific, as I understand it, would be entitled to all the earnings accruing under the first 25 miles haul, leaving the Frisco only 2½ cents per hundred.

Q. For hauling the whole distance?

A. The Missouri Pacific would have the short end of the rate and the long end of the mileage.

Q. I am taking four miles as against 24?

A. The initial line which pulls the freight would have
3144 the opportunity of charging the maximum proportion. That is, it receives it for the first 25 miles of the service.

Q. I believe we have never had any other statute, Mr. Stith, except this one, that proceeded to make a bill upon this theory. Now what do you say as to the five cents for the first 25 miles. That evidently intends to provide for two terminals. But you take the case of a car destined to a point on another road, how many terminals will there be, really?

A. You mean that passes over two lines?

Q. Yes, passing over two lines?

A. That would be practically four terminal services: That is, the terminal service of the initial line, in receiving and forwarding the freight; secondly, its service in delivering to the connecting carrier; third, the service of the connecting carrier in receiving and forwarding over its line; and fourthly, the terminal service incident to the final delivery to the consignee of the property by the final carrier.

Q. So in case a car is destined to another road, there are four terminal charges: Now, if the car is shipped from one point on another railroad to another point on the same railroad, there are two terminals only, of course?

A. There are two terminals only on any given service.

Q. And those two terminals are provided for by the first paragraph of this Act, the 5 cents per hundred?

A. Yes sir.

Q. But where they go beyond, and the terminals are
3145 doubled, increased from two to four, there is no provision made for pay?

A. There is no distinction made between the service which is performed exclusively by one, single carrier, and that which is performed by two or more carriers, notwithstanding the fact that each of these successive carriers have additional terminal expenses to bear out of this continuous mileage rate.

Q. What do you say, Mr. Stith, as to the justice of this five cents

on short hauls, or on any haul on the Missouri Pacific railway in Missouri?

A. I think it is unreasonably low. I think it is an unjust rate.

Q. Will you state to his Honor why you think that?

A. I think it is unreasonably low because it does not afford what we understand to be a sufficient compensation for doing business. The expense of receiving and handling at the station, billing the shipment—handling, of course includes the loading—would almost in any case absorb a considerable part of the five cents per hundred. Then there is the road haul and delivery to the consignee, which may include the setting of the car to a team track, or an industry track, or to the connecting line track, for final delivery to the consignee.

Q. Then when you said that you thought there was no objection to the bill in the matter of its form, you did not——

A. I had no reference to the measure of the rates, only to
3146 the form in which it was put.

The MASTER: If the Act in your judgment had provided a sufficient sum for the initial service, the principle upon which the Act proceeds would be unobjectionable, in your judgment?

A. That is my judgment about it.

Q. But as a matter of fact five cents is not sufficient compensation for the initial service?

A. I don't think so now, and have never thought so.

Mr. HAGERMAN:

Q. With the additional feature you explained about that last provision in the section applied to that?

A. Yes sir, that is also objectionable.

Mr. CLARDY:

Q. State any other reasons why you are prompted to say that that five cents a hundred is not sufficient?

A. The five cents per hundred is the basic figure in these rates. And following along for succeeding mileage, in harmony with the provisions of the law, it brings such drastic deductions in our present rates, not only on the Missouri Pacific, that might be affected, but the vast volume of interstate traffic that cannot be separated, so far as rate adjustment is concerned, from the Missouri proper business, or the rates on the Missouri proper business, that in my judgment these rates are unreasonably low.

The MASTER:

Q. What do you mean by that; that while the Act purports only to affect business which is purely local to the State of Missouri,
3147 yet in its practical application to the business of a railroad it might as a matter of fact affect interstate traffic?

A. Yes sir, that is exactly what I mean to say.

Mr. HAGERMAN:

Q. Go into that somewhat in detail, so as to make it clear.

A. In the first place you take the rates on grain: The grain rates are adjusted primarily from Kansas City to St. Louis, based on competitive conditions which prevail. Now, the rate, for instance, whatever it is, from Kansas City to St. Louis is the rate, if you please, or substantially so, to Omaha and to the corresponding point on the Mississippi opposite Omaha, Dubuque, if you please. So far as the Missouri Pacific is concerned that immediately brings up this one question, shall the Missouri Pacific from St. Louis to Omaha forego the hauling of grain, or shall they continue in the market? If they do, they must consider that they must make the same rate from Omaha to St. Louis, for instance, as on a shipment going to New York, as would be made from Omaha to Dubuque, the rates from the Mississippi River to the east being the same. If they do conclude to engage in that traffic, the next thing to follow is the effect that their doing so would have upon their rates from the intermediate points. They would be correspondingly affected, and that would involve practically all of the Nebraska stations, all of the Kansas stations, which grow grain, and those are the great granaries of our western country.

The same is true of every commodity that is listed in this
3148 list. The application, if you please, of the cement rate, from the Mississippi to the Missouri river would change the present rate from 10 to 8½ cents per hundred. Now, that 8½ cents originally is based upon the Hannibal-Kansas City mileage. Just as quickly as that rate is changed on cement from Hannibal, which is a large producer of cement as you probably know, here comes Iowa, Louisville, and other producing points that make this same grade of cement, demanding a reduction of rates. The result would *would* be that it would affect adversely the rate on Kansas cement, which is a large producer of cement, producing the competition created by this Missouri law. The establishment of the 8½ cents based on this law would mean a reduction of 1½ cents per hundred.

Q. What is the rate now?

A. Ten cents west bound. If the damage to be done could be confined to the movement between Hannibal and Kansas City, or from Hannibal to St. Louis, of course the loss would not be so great; but the competition in the market and the scramble for trade is such that every producing point desires to cater to the Kansas City trade, and would have to have a similar reduction; in other words, the same 1½ cents would have to be taken off of all the rates.

So while nominally the movement from Hannibal to Kansas City would be only 10 to 12 cars a month, it would affect the vast tonnage that goes into Kansas City from these other points. That same thing is true to the effect that these rates are directly affected
3149 with to every one of these other commodities.

You take lumber, reach the result of its application, and this law would reduce the present rate, if you please, from the Missouri River Yellow Pine District down Grandin. The present rate of 15 cents. This law would make it 12 cents. A reduction of 3 cents per hundred. Now the competition and freight conditions would in all probability, and beyond any question of doubt, enforce

a reduction on all yellow pine producing points and involve the yellow pine producing points on the Iron Mountain Railroad, immediately east of the Grandin district, as well as Arkansas, Texas, and the States east of the Mississippi River. The lumber tonnage of the Iron Mountain Railroad is a very substantial portion of its general business, approximating about 30 cents, or perhaps not quite that much.

Q. Have you a statement there showing the present rates and the rates under the Act of 1905 and the differences, and so on? If you have a copy, hand it to the Master.

The paper referred to is offered in evidence and marked "Complainant's Exhibit 2."

The paper referred to is in the words and figures following, to-wit:

3150 A. You take the livestock situation, take cattle, for instance. Our rates from Kansas City to St. Louis at the present rate are 14¾ cents per hundred. That means $32.45 for a 36 foot car.

Q. That is the present rate?

A. Yes sir, that is the present rate. The Act of 1905 would make that rate $23.10.

That makes a reduction on cattle of $9.35 a car. If the Missouri Pacific Railroad Company was in a position to take advantage of its full mileage of 283 miles from Kansas City to St. Louis, their rates would be $29.70 per car.

Q. That is under the new rate?

A. Yes sir, under the new rate. But unfortunately they are compelled to make the same rate, no higher, than the shortest line to Kansas City, the Hannibal line, make; which requires them to accept $23.10.

Mr. HAGERMAN:

Q. Let me get that plain: If you could get your mileage practically on the Missouri Pacific you would get $29.70?

A. Yes sir, but on account of the short line we get only $23.10. Now, the conditions surrounding the movement of livestock are such that if you reduce your rate from Kansas City you have got to reduce it from Omaha and from the territory that is adjacent to both of those markets.

3151 Q. I don't understand that?

A. Take cattle, probably that is the class of stock that moves in the greatest volume, you will have to reduce your rates from Omaha. Ordinarily there is slight difference between the rates from Kansas City to St. Louis and Omaha to St. Louis, the rates from Omaha being slightly higher. Now, as soon as you change your rate from Kansas City to St. Louis, under the system in vogue in making rates, the rate to Chicago, which is the greatest cattle consuming market in this country, is immediately reduced. It is done automatically without any further action on the part of the railroad company.

3152 Q. Explain why?

A. Because of the established alternative difference in the rates to those two markets. In other words, the rate to Chicago is made so many dollars and cents higher than the rate to East St. Louis on livestock. That applies from Omaha, that differential, as well as on Kansas City shipments.

Q. Go on and state what you said about that being a great livestock market?

A. The tendency would be, unless the Missouri Pacific met these rates to Chicago, that they would of course be forced out of the business to St. Louis. The reduction which would follow from both Omaha and Kansas City would have a tendency, unless there was a readjustment in the rates into this market from points of origin, to deflect the business from the country points direct to the final market, that is, St. Louis or Chicago. And it seems to me that the reduction from Kansas City and Omaha to Chicago and to St. Louis, might in all fairness be said to be followed by a reduction from the country points in Kansas and Nebraska, not only to St. Louis and Chicago, but also to Omaha and Kansas City. Those markets are the consuming markets in the same sense that Chicago and St. Louis are. And they would want to have the stock come in there for killing purposes as well as to have it to *to* Chicago and St. Louis.

With that state of affairs we would also be confronted with reductions in our rates from all through Nebraska and Kansas, and before we got through with it, it would reach from the Canadian
3153 border down to the Mexican Gulf, all dependent upon this rate from Kansas City to St. Louis. And I want to say before leaving that subject, that there have been instances within my knowledge where the rates on live stock having been changed from Kansas City to St. Louis has affected every rate on live stock from points west of the Missouri line, from the Canadian border to the Mexican Gulf, from the Mississippi River and Chicago.

Q. Can you give any instances?

A. That has been several years ago. Some little time ago, Mr. Clardy, that was the effect of it.

Another phase of this matter, and it is germane to the livestock business, is the question of the effect that these rates on livestock will have upon the products of livestock; Packing house products. Even though you may not reduce your rates from the country points, that is the points of origin, to the Mississippi river and Chicago, or even Kansas City or Omaha, just as quickly as you reduce your rates on livestock from Kansas City to Chicago you have demands for a reduction in the rates on the products of livestock, the packing house products of all kinds, because of the co-relation that exists between those traffics. It has always been our experience that a reduction in one is followed by a reduction in the other. The two are so interdependent that you cannot separate them. Therefore, if this law was made operative and it provided the reductions which these figures show on livestock from Kansas City to St. Louis, it would also make reductions from all the packing house points, not only Kan-
3154 sas City and St. Louis, but all of the packing house points as far west as Wichita, undoubtedly Denver, not only to St.

Louis, but all the markets that are reached by Mississippi River crossings and Chicago. So, while it is apparently a very innocent looking affair, the reduction of railroad rates between points in Missouri, it runs up into an enormous amount of money, as a direct influence.

Q. What do you think about that law?

A. I think that rate is the most unreasonable rate I ever saw. I cannot criticize it enough. It is outlandish, beyond all reason. It must have been the product of somebody's mind that had a bad dream. It is the most unreasonably low rate I ever heard of.

Q. Just compare it with the existing rates?

A. I have made some few figures here. You take the livestock traffic: You are compelled to furnish a special kind of car, that has got to be specially fumigated and in a certain sanitary condition to meet the requirements of the government inspectors governing the transportation of livestock. This car has to be taken sometimes a good many miles for loading, set for loading, and it has to be set there at a certain time, otherwise you get into trouble with the livestock shipper. Then when your train comes along, they must set this car for loading and keep an engine with it until it is loaded and set the car into the train. Under the existing law you not only have to transport the livestock at a reasonably low figure, but you must carry free someone to take care of it and then you have to return him free.

3155 The livestock traffic under existing conditions, without even the reductions that this law of 1905 would bring, is a very doubtful proposition as to whether it pays the cost of handling.

Q. You mean at the present rates?

A. Yes, sir. I have some instances here. Take the rate for instance from Joplin. The present rate on cattle is $46.75.

Q. To Kansas City?

A. To St. Louis.

Q. From Joplin?

A. From Joplin. This 1905 law would make it $31.90. This is a reduction of 31 per cent. Now that rate is made by the short line mileage of 311 miles.

Q. By the Frisco?

A. Yes, sir, by the Frisco. If the Missouri Pacific could use its own distance of 382 miles, their rate would be $38.50. That in itself is a very drastic reduction. Take it from Nevada, Missouri, the rate on cattle—I might give you the horse rate, too, from the Joplin territory. The horse rate at the present is $61.48. Under the 1905 rate it would be $31.09, a reduction of 48 per cent. The hog rate would be $31.00 under the 1905 law, the present rate being $45.25. That is a reduction of 30 per cent. If I may be permitted I would like to give all these figures from several points, because I have them so they can be filed as exhibits.

The paper referred to is offered in evidence and marked "Complainant's Exhibit 3".

3156 Take Joplin, the distance to St. Louis is 382 miles on the Missouri Pacific. The short line distance is 311 miles. On

wheat the 1905 rate would be 11 cents; the present rate is 14¾ cents; percentage of reduction 24.

On other grain the 1905 law makes the rate 11 cents; the present rate is 13¼ cents; percentage of deduction 19.

On flour the 1905 rate is 11 cents, the present rate 14¾ cents; percentage of reduction 24.

Q. If you are going to put those in an exhibit it is not necessary to read them.

A. There are several more of these I would like to emphasize, of this same character.

Q. Relating to the same products?

A. Relating to all the products covered by the 1905 Act on different points and different mileages. Some of these points the competitive conditions are such that we must make a substantially less rate for our mileage than this law would permit, if we could apply it to our distance direct. In other words, the other line mileage is so much shorter than ours that it affects our rate very materially.

The MASTER: I observe that this Exhibit 2 has no heading that would indicate what it is intended to illustrate. I suggest that you put some memorandum on the head of that page so it will show for itself.

The usual hour having arrived, recess is here taken until two o'clock.

3157 After recess on Monday, January 14, the following proceedings were had:

Direct examination W. C. STITH continued as follows:

By Col. M. L. CLARDY:

Q. You wanted to make some specific statement in regard to other commodities?

A. Before I do that, if the Master please, I would like to say that this morning in giving the short line controlling rates from the Mississippi to the Missouri river I used the illustration of the M. K. & T. from Hannibal to Moberly, and the Wabash from Moberly to Kansas City, forming together a road 199 miles long. I was afraid the inference might be drawn that that was the route that has been used up to this time for rates across the State of Missouri. Should this law become operative we should then have to use that mileage as the short line mileage for making the rates. But up to this time we have used the Hannibal and St. Joe distance, which is substantially 200 miles, or the Hannibal to St. Joe, as the controlling mileage factor across the State of Missouri, in determining the measure of rates between Missouri and Mississippi river cities. I should like to make that perfectly clear so there will be no misunderstanding as to what I intended to say.

Mr. HAGERMAN:

Q. The distance on the Wabash being 199 miles and on the other 200 miles?

A. Yes, sir. There might be some technical point raised about that, and I might as well clear it up now as later on.

3158 I started to give the comparison of these rates as to what we would be compelled to make under the 1905 law as compared with the present rates, and the percentage of deduction. My understanding is that you desire I submit these figures in an exhibit?

Q. Yes?

A. I have not them prepared as yet, but I will do so.

Q. That statement will simply be a comparative statement?

A. Yes, sir.

Q. Together with an ascertainment of the percentages?

A. Yes, sir, of the percentages. Now, in the case of Joplin to St. Louis on horses, for instance, the normal rate, which is not in our judgment an unreasonable rate, and is based upon the railroad commissioners mileage, applied to the distance of the St. Louis & San Francisco line, which is the short line mileage, makes the rate of $61.48. Now that rate is 192 per cent of the rate which this proposed law of 1905 would make. In other words the law of 1905 would compel a rate of $31.90.

Q. As against what?

A. $61.48.

Q. Then our company——

A. Our company cannot get the full benefit of our mileage, so we have to accept the short line rate.

Mr. HAGERMAN:

Q. That is practically a 50 per cent reduction?

A. 48 per cent. Stating it another way, the normal rate is 198 per cent of the rate which this law proposes to apply.

3159 Q. Before you pass that, Exhibit 3 about which Col. Clardy has asked you, will be applying Exhibit 2 with the percentages carried out?

A. Yes, sir. I will call attention to the other advantages of it, because it shows what the relativeness of these rates are, when you use these excessively reduced rates as the factor upon which your computation is made, instead of working it the other way.

Colonel CLARDY:

Q. You have spoken of live stock, and the effect of these reductions not only in Missouri but elsewhere. Take the several commodities; take class G?

A. May I take them in order, commencing with class D which is the grain proposition?

Q. Yes?

A. The present local rate on grain from Kansas City and other lower Missouri river points, to the Mississippi river were 11¾. Corn and other grain 10¾ cents per hundred while under the Act of 1905, using the short line distance from Kansas City to the Mississippi, this rate would be reduced to 8½ on all kinds of grain, and that would include flour and articles taking the same rate. That reduction would be followed undoubtedly by a reduction in the rate

on these same articles from Omaha, and through the operation of that reduction would follow reductions in the rates from Nebraska and Kansas points.

Mr. HAGERMAN: That is for the same reason you gave as to the other commodities?

A. Yes, sir. Part of our Nebraska line is intermediate
3160 between Omaha and Kansas City, and subject to the same controlling conditions that are influential at Omaha and Kansas City.

In this case here is a reduction of 3¼ cents on wheat and 2¼ cents on corn. That would mean not only would our rates in Missouri be reduced to the extent of this reduction, at all points where the Kansas City rates apply as the maximum, but that all of these interstate rates would be correspondingly reduced. So far as Omaha is concerned, if we desire to stay in the market for the movement of either wheat, corn or any other grain to the Mississippi river, we will be compelled to carry a corresponding rate adjustment from that point. And that would mean that these rates would have to be applied to a mileage of 493 miles. There might be one or two cents higher rate made from Omaha than from Kansas City, to certain interstate points to the Mississippi river crossings that could not be possible.

Q. What would you say of the adjustment of a tariff that would put the same rate on commodities in class G and the commodities in class F?

A. I should not consider that a very consistent tariff. That is one of the points in discussing the tariff it was my purpose, if I am permitted, to bring out. These rates for instance in class D cover all kinds of grain, and incidentally it covers all kinds of the products of grain, such as flour in sacks, and feed, and commodities of that character.

Q. Class E takes in lumber?

3161 A. Flour or lumber are specifically provided for in this tariff under class E. That refers especially to flour in barrels but the rate is the same as under class D, you will notice.

Take the transportation of grain as compared with the transportation of flour, and I think anyone would admit that the rate on flour ought of itself to be higher than the rate on grain. In other words, grain is the raw material, and should a car containing it be wrecked the loss is immaterial as compared with the loss or damage to a shipment of flour. If you happen to load a shipment of grain in a leaky-roofed car, it is a very easy matter to have it dried out. When you load a shipment of flour, particularly in sacks, in a leaky-roofed car, and that is bound to occur every now and then, the damage is so great that the loss is considerable. It is frequently a difficult proposition to dispose of flour of that character, without being compelled to make good the entire invoice of the shipper.

Q. When the flour is wet it is gone?

A. Yes, sir, it is gone as far as its use for bread-making purposes is concerned. All they can do is to make it into paste or something of that character.

Taking the rate on salt, which is made here the same as grain and flour.

The rate on cement and water lime and stucco is the same thing. It seems to me it is rather inconsistent to make the rate on salt the same as the rate on flour.

The MASTER:

Q. Do the rates described by the Board of Railroad and Warehouse Commissioners, under which you are now operating,
3162 make the distinctions on the charges of those different classifications?

A. They do with the possible exception of the flour and grain. That is a commercial or competitive condition that has brought about a state of affairs whereby in the larger proportion of the territory of the United States, the rates on flour and grain are the same. That was brought about largely, apparently, from the export situation. The ocean carriers of flour charged a higher rate than they do on grain. And the only way the flour could be exported was for the railroad companies to make as low a rate as they reasonably could on the flour. They did not feel they could make it any less than the rates on grain, which they have done. That gives the home mill an opportunity to send its flour abroad. It is wrong in principle and it is very dangerous in practice.

Q. But it is recognized, as I understand you, by the rates prescribed by the Board of Railroad and Warehouse Commissioners?

A. I think it is recognized in those.

Mr. CLARDY:

Q. Has not the Interstate Commerce Commission always justified a higher rate on grain than on the products of grain?

A. Yes, sir, in the first case, the example I cited there about flour and wheat being the same, is especially true of the eastern movement. Wherever the question has been raised before the Interstate Commerce Commission and decided by them they have accorded the higher rate on flour then on grain, notably in the case of the
3163 Kauffman Milling Company, brought in the early days of the Commission, against the railroad companies, having reference to rate adjustment to Texas, in which they ruled that the rate on flour should be five cents higher than the rate on grain. As a general principle that is generally recognized. Although in the tariff here made by the Railroad Commissioners they make the same rate on flour as on wheat.

The MASTER: That is the State commission?

A. Yes, sir, but they do make a different rate on those other articles as compared with the rate on flour. You take it on 25 miles, the rate on wheat is 6 cents and on corn 4 cents, lumber 4 and salt 4½ cents. There is a difference in the progressive grade and the rate as to the distance if it is over 25 miles. It is substantially higher.

Q. It proceeds upon a different theory than as you explained this morning?

A. Yes, sir.

Q. And your exception, as I understand you, is not only to the reduction in the specific rates, but in the application of the new theory upon which it is to proceed?

A. Yes, sir.

Q. That it should operate to an additional disadvantage to the road giving the basic sum allowed as five cents in each case, as insufficient?

A. I think that is utterly inadequate.

Q. If I can make myself understood—but in addition to the rates being insufficient in themselves, the application of this new law would——

3164 A. It simply augments the disadvantage that is worked out by the application of this theory in this case.

Mr. LADD:

Q. I understood you to say that class D covered flour in sacks: Was I right about that?

A. I assumed it did because it read "grain" but I see that it says here under class E that flour and lumber are carried together.

Mr. CLARDY: It is the same rate?

A. Yes, sir.

Mr. LADD:

Q. The minimum weight of the car is quite different?

A. I am glad you called my attention to that. I saw that a moment ago. That only goes to show how unreasonable the flour rates are. You permit the roads to charge for 40,000 pounds of grain, but you permit them to charge for only 24 thousand pounds of flour as a minimum. When a car is filled, all you can charge for is 24,000 pounds, provided, of course, the actual load is not greater than that. Whereas with grain you do not apply the carload rate unless you get the minimum of 40000 pounds. Of course using the actual weight for all over that. In other words, if a carload of flour contained 20000 pounds you would be permitted to charge for only 24000, if the shipper demanded the application of the carload rate. But in case of grain, if the car contained 20000 pounds you would be permitted under this law to charge him for 40000 pounds before he got the benefit of the carload rate.

Mr. CLARDY:

Q. And also as to class F?

3165 A. And so as to class F and also as to class G. Only that the difference in those two cases is that the minimum is 30 thousand instead of 24 thousand or 40 thousand pounds.

Q. Are there commodities in the Act that can bear a higher rate than the existing rates on the same commodity: I mean under the law. Does the law authorize higher rates than the company now collects?

A. I should say that would be true in some cases. You take corn for instance. There might be some nearby points, adjacent to good roads, where corn might be loaded into a car returning to a market

empty, which the railroad felt it might take at a less rate than made by the law or the commission, simply to help out the mileage of that particular car, or the charge for the use of that particular car.

Then again there is the rate on lime: The rate on lime is made very often without any reference to the earnings upon that particular commodity being compensatory. Take the case of St. Louis here: The rate from the kilns is, if I am not mistaken, about two cents per hundred. Now, originally that rate was made to meet the local competition of all the lime burned right here in town. That lime was loaded in cars that would otherwise be returned to the connecting lines empty.

Q. If you had this statutory rate in effect, how much lime would you haul?

A. You could not haul any short-haul lime.

Q. There is a lime kiln just south of here?

A. There is a lime kiln on the Iron Mountain road just south of St. Louis. There are one or two immediately west of St.
3166 Louis.

Q. Is there a large lime kiln at St. Genevieve on the Mississippi river?

A. Yes, sir. I don't know whether the kilns in the town here are in operation at the present time, but they were scattered all over this city a few years ago. At any rate, it is the general practice of carriers, so far as they have come within my knowledge, to disregard any statutory rates that might be made when it comes to the handling of construction material, building material, such as is used in the building up of a large city, from places that are nearby.

Q. What, then, would you say with respect to all these commodities where the rates are advanced by this law: Could the company get a revenue from them if the company put in the rates?

A. No, sir, I don't think so. I think that would mean a discontinuance of the movement of that business from those points by the railroads.

Mr. HAGERMAN:

Q. In that connection, and with that explanation, here is a concrete case, from your Exhibit 2. Take Washington, Missouri, 55 miles out, you charge at present 5¼ cents for lime and cement, and under the Act you could charge 6 cents. Run down the column to Harrisonville, Missouri, where you charge at present 12 cents and under the Act you could charge 10 cents. In one case you are charging actually less than the maximum allowed by the present Act and in a given case a good deal more. Apply your re-
3167 marks to that concrete case so you can illustrate it?

A. Neither one of those cases is exactly within the scope of the example I have reference to. Washington is 55 miles from St. Louis. Nearly all the rates are for comparatively short hauls.

Mr. CLARDY: Where is Glencoe?

A. Immediately west of here about 25 miles.

Q. The lime on our road originates largely at that point?

A. Yes, sir, on the Missouri Pacific; and on the Iron Mountain, just below the city.

Mr. HAGERMAN:

Q. I see another case in Exhibit 2: Take salt 5¼ cents and under the Act you could charge 6 cents. When you get down to — you could charge 10 as against 14½ cents?

A. You understand that Washington is right on the river and anything they can ship by boat is subject to conditions that are to a greater or less extent incident to boat transportation. Salt is frequently shipped by boat.

Q. The point I am trying to bring out is, that it did not depend so much upon the commodity as on the locality, isn't that true?

A. Yes, sir.

Q. And that was dependent upon local conditions, and in order to reach the situation where the rates were less than the present bill, it was thought in order to meet the local conditions you had to make that rate in order to get the business?

3168 A. There are the same local conditions controlling that makes it necessary to make the rate in that particular case.

Mr. CLARDY:

Q. Is there anything else you desire to say on that subject, Mr. Stith?

A. I described the cement business.

Q. Cement and lime are in the same category, ar-n't they, about?

A. Well, no, they ought not be. At the time this fashion was set of coupling up lime and cement together they were sold by practically the same dealers, but the cement proposition has gone far beyond that, and so it is an independent and distinct proposition today.

Q. And not so easily manufactured?

A. No, sir, you have to have certain special conditions to manufacture cement.

Q. If a man cannot get lime at the price he thinks he ought to have it, he makes it himself?

A. He can do that.

Take this salt question here. The reduction in the salt rates is quite material. The adjustment say from St. Louis westbound; take Rich Hill, for instance, it brings a reduction of 3½ cents per hundred in the rate from St. Louis. Now, that would mean we would have to reduce the rates from the Kansas fields correspondingly. That would be an interstate transaction. The distribution of sale is a very important trade. With the farmers, the man who can sell the farmer his salt generally sells him the balance of his bill

3169 of goods. They use that as a "leader."

In the case of agricultural implements, wagons and furniture, the Act of 1905 would reduce the rate from the Mississippi to the Missouri river from 22½ cents per hundred to 14 cents per hundred. Now that is 40 per cent reduction or 8½ cents per 100 pounds reduction.

A reduction of that character would mean a reduction of all of the rates from every point east of the Mississippi River or Chicago to every point west of the Missouri river line, and including the Mis-

souri river line, they would be reduced in just that proportion, because the rate from the Mississippi to the Missouri river is the basis of all of this trans-Mississippi traffic, moving in either direction, between the manufacturing points of the east and the northwest and the northeast, and the consuming territory in the west and southwest.

So that while, as I said about one of the other commodities, the movement here within this State might be comparatively small, yet it would affect the earnings of the railroad companies on all of the vast quantity of the implements, and that is what I have more especially in mind, that drift into Kansas City and from there are distributed all through the west and southwest. And as well on all of the shipments that would be consigned through from shipping points to points beyond the Missouri river line.

You probably know that Kansas City is the greatest distributing market of agricultural implements in the world, and so far as furniture and wagons are concerned, the same statement might be made with equal force as to the movement of those two articles.

3170 When I look at the effect of this rate, I have to view it not only from the standpoint of how it will affect our earnings in Missouri but what will be the effect on the interstate rates. It would be very disastrous. In this particular instance, as I say, the reduction would be 40 per cent from the present standard of rates.

Q. In making rates, Mr. Stith, have you reference to the cost of transportation? Do you consider that?

A. Well, yes, in a way: It must be considered. I would not say we have a definite idea as to the dollars and cents, but we have a sufficiently practical idea to have sense enough to know when we are doing something for nothing.

Q. And you understand I suppose, necessarily, the relative cost of handling local and through freight?

A. I understand that in a general way, yes, sir.

Q. I mean in the preparation of your rate sheets?

A. Oh, yes.

Q. I should think you would consider that question. Do you?

A. To some extent, yes.

Q. Are you prepared to express an opinion as to whether it costs more to handle what you call State freight, that is freight originating in the State and destined to another point in the State, without passing out of the State, as compared with freight that passes through, or freight that has its origin and destination outside; or its origin outside and its destination in the State?

3171 A. I have a general idea about that, Mr. Clardy. I do not know that I could give you any definite figures. My impression of the matter and understanding has been the result of my connection with the business—I don't know that I have any detailed figures to submit—but it has always been my idea about it, that the cost of doing the purely local business was very substantially greater than the cost of doing through business. And it has always seemed to me that that cost would be up to fully two and one half times as much.

You take the handling of a local shipment between two points in Missouri: You are required by your charter to inaugurate and continue certain train service. These trains have to run, and the necessary supervision in the way of officers, necessary trainment to handle the trains, telegraph service, and everything of that kind, has to be provided to insure the movement of such trains over the rails. It might require and undoubtedly would require some augmentation of some part of that service to do at the same time the interstate business. But you are required to provide station facilities, passing tracks, delivery tracks, for your local business regardless of whether you do any through business or not. And it has always seemed to me, and I have heard it discussed many times, that the cost of doing your local business was very substantially greater than the cost of doing your through business.

If we had a train loaded out of St. Louis proper, for Sedalia proper, and there was room enough in one of those cars to take an interstate box that was going to some point in Kansas, and it took it
3172 that for on its way, it would be almost impossible to figure out how much the railroad company would have saved in the transportation of that particular lot of freight, if it had not carried that one particular interstate shipment. And that saving would really represent the cost to the railroad company of the transportation of that one shipment.

Q. You speak now of commodity?

A. Yes, sir, of a commodity,—of an individual shipment.

Q. But speaking of commodities shipped in carloads: of course if a carload comes through St. Louis to Kansas City, and has a terminal here and one at Kansas City, that I suppose would make it cost more than a carload that was going directly through the State; or one that originated in the State and went on outside?

A. It would make it cost more for that part of the haul.

Q. Take what we will call strictly local freight, destined to strictly local points, say Pleasant Hill, Carthage, Joplin, Jefferson City. These cars are many of them moved in the night time?

A. I should say for those distances, yes, sir.

Q. Do you know anything of the cost of those compared with the cost of through freight?

A. I have only a general idea of that. As I said before, my impression is gathered from my contact with this business for a number of years, that we can—well, as a matter of fact we can tell from our last year's report what our average per ton mile cost is and we can tell what we must be guided by in trying to adjust our rates to see that we get fair earnings for what we do.

3173 Q. Considering the traffic in Missouri, the revenues which have been produced under the present tariff, and the revenues, assuming the business will be the same that will be produced under the new law, in your opinion, Mr. Stith, are these rates provided by the new law compensatory?

Mr. LADD: Isn't that question pretty general, if your Honor pleases?

Mr. CLARDY:

Q. Having reference later on to the State traffic?
A. I do not think they are.
Previous question read.
Q. I mean, will these rates be compensatory, in your opinion?
A. I don't think so.
Q. I will ask you again, taking all the rates, all the new rates as they are, would the company be compensated for operating its road in Missouri?

Objected to as being too general.

Mr. CLARDY: I will shape that a little differently, then: Would it cost more to operate the road than the revenues derived would amount to?

The MASTER: That would not be the test, because that would wholly exclude all other business than that included in the question, whether the road was making money or not.

Mr. HAGERMAN: Wouldn't it be an element?

The MASTER: Possibly. You may ask the witness this question—frame it to suit yourself: Whether if the rates prescribed by
3174 the Act of 1905 when applied to the commodities mentioned in the Act, taken in connection with all the local business in Missouri, would afford a compensation to the railroad for doing that class of business.

Colonel CLARDY: I will let him answer that question and then will put another to him.

A. I do not think that would be compensatory.

Mr. CLARDY: In your opinion, if the rates of 1905 were put into effect, would the railroad company receive compensation, including its tariff on other commodities, sufficient to enable it to run its train and operate its road in Missouri?

Mr. LADD: I object to that question. I do not suppose the whole property of this company in the State of Missouri is devoted to the local traffic.

The MASTER: I am inclined to think the objection is well taken, but I will overrule it pro forma and take the opinion of the witness.

A. I am of the opinion that they could not do it, although that is a matter which——

Mr. CLARDY:

Q. Let me ask you another question: Will it cost more than the company derives from this particular traffic, to do the business prescribed by this statute?
A. I am of the opinion it would cost more.
Q. In other words, it would cost more to carry this traffic on the rates prescribed than the revenues derived would amount to?
A. That is my opinion.

3175 The MASTER: And if I understood you aright, without confining yourself to the commodities prescribed by the Act,

the whole local business in Missouri would not afford compensation to the railroad, if the Acts of 1905 were applied?

A. You are correct. Yes, sir, that was my answer to that.

Mr. HAGERMAN: We want some place pointedly in the record the question, does he think the applying of these rates to the business of this company would compensate for the cost of doing that business?

A. He just asked me that question.

Colonel CLARDY: Are there any observations you would like to make? You understand this subject?

A. Yes, sir. These rates, at the time they were proposed by the legislature, were very strenuously opposed by the railroads, as being unreasonably low and not compensatory. They are substantially less than many of the rates in our eastern states.

Q. Yes, I intended to ask you that and I forgot about it. I should like to institute a comparison here between rates in Missouri and those in Illinois and Iowa. Take livestock, for instance?

A. Take the cattle rates, they are very much lower than the rates in any other adjacent State. The percentage of difference is very marked and that is especially true when it comes to the short hauls. The movement of cattle and calves show that out of the total number of cars of 2954 during the period for which this was
3176 compiled and I think it was for 1905, 2139 of those cars, or 73 per cent, moved for a distance of 100 miles and under. The rates for those distances proposed in this 1905 law are absolutely compensatory beyond any question of doubt.

Mr. LADD: Are you reading from an exhibit that is going to be offered here?

A. No, sir, I am just giving you some figures.

Q. Have you it in the form of an exhibit?

A. No, sir, I have it in the form of a memorandum.

Q. Will you give me a copy?

A. I can give you a copy of what I use.

That statement shows that 462 of those cars were hauled for a distance under 25 miles. 487 were hauled 50 miles. 480 were hauled 75 miles. 410 were hauled 100 miles and over 75 miles.

The rates in Iowa which have always been decried as being excessively low, are noted all over the Union as having practically killed the development of the State, are, on cattle for carloads, 36 foot car 22000 pounds, for the first 25 miles, $14.76; while the maximum bill of Missouri makes it only $6.60. For 50 miles the rate in Iowa is $19.10 whereas the 1905 bill would be $9.90 per car and for 75 miles would be $22.00 in Iowa as against $12.10 under the 1905 law. For 100 miles it would be $24.90 in Iowa as against $14.30 in Missouri.

Practically, in substantially all cases but one the rates proposed in this law are only one half of the rates on livestock in effect in Iowa.

3177 Now, that same ratio and discrepancy is apparent in all of the rates on livestock. That is all kinds of livestock.

Q. Have you the Illinois rates?

A. The Illinois rates I have here. I don't know what date these rates are.

Q. You do not know whether they are under the horizontal reduction of last July or not?

A. No, sir. They are $14.30 for 25 miles, $16.95 for 50 miles, $19.14 for 75 miles, $20.90 for 100 miles.

As against the proposed rate in Missouri of—$6.60, $9.90, $12.10, $14.30.

Q. How does the traffic in Illinois and Missouri compare, with respect to its density?

A. My information is that the density is very much greater in Illinois that it is in Missouri.

Q. And in Iowa?

A. I take it that is true of Iowa also.

Q. Have you any of the other States? Have you it for Arkansas?

A. Yes, sir, I have it for Arkansas. The Arkansas rates are somewhat less, but the movement of stock in Arkansas does not amount to very much.

Q. Are there any States, so far as you are able to ascertain, where the rates on livestock are as low as it is proposed under this law to make them?

A. On the short hauls there are none. On the intermediate hauls there may be one or two cases where the rate is less. And on the long haul thre are many cases where the rates are substan-
3178 tially lower under the proposed Missouri law than there are in the other States. For instance, the rate in Iowa for 300 miles is $44.57 whereas the proposed rate in Missouri is $31.90.

Q. Then it was the reverse of what you said. There are many instances where the rates are higher than they would be under the new law in Missouri?

A. I think that is what I did say.

Q. How is it with reference to other commodities?

A. The wheat rate adjustment shows a lower schedule proposed in Missouri than in the other States. There is no wheat production in Arkansas: but in Illinois and Iowa the rates are substantially higher than in Missouri.

Q. And the density of the traffic greater?

A. The density of the traffic is considerably greater. I am sure it is in Illinois and reasonably sure of Iowa. As to the wheat movement, so far as this statement shows, there were moved within the 100 miles radius 868 out of the total of 1325, or 60 per cent; and the greatest discrepancies in the rates are shown within that first 100 miles.

As to corn, substantially the same condition is true, with the one exception of one or two rates in Arkansas from which there is no corn movement. The movement of corn within the 100 mile radius is 234 cars, or 86 per cent of the corn moved from distances within that radius. And that total of 96 cars moved within 25 miles, short haul business.

On flour the rate proposed in Missouri is less, substantially,
3179 in all cases than that shown in Iowa, Illinois or Arkansas. And the movement shows that out of a total of 445 cars, 382 moved from points within the 100 mile radius, or 86 per cent.

On lime the rates proposed in Missouri are generally lower than those in Illinois. They are in some instances higher than those in Iowa.

Q. We don't care much for that because we could not put in a higher rate on lime.

A. The movement there shows that out of 1169 cars moved, 1097 of them moved a distance within the 50 miles, which sustains what I have said.

On the lumber movement the rates in Illinois and Iowa are higher than those proposed in Missouri, except on the very short hauls. Those in Iowa are about on the same scale as the proposed rate in Missouri. Those in Arkansas are less. The reason why the Arkansas rates are less is that there is a saw mill at every town and if the railroad want to haul any of the lumber business—well, I won't say at every town but lumber is produced almost all over the State, and the local conditions require a very low rate.

On Agricultural implements, the rates in Illinois and Arkansas are substantially higher than those proposed in Missouri; and the rates in Arkansas especially so. Those in Iowa are in some instances lower, especially on short hauls, but in the main higher than the rates proposed in Missouri.

3180 Going back to the lumber movement, the movement in Arkansas shown that out of 1234 cars, 792 moved within the 100 mile radius and of that 692 cars 634 moved within the 25 mile limit.

The agricultural implements show 39 per cent movement within the 100 mile limit and 61 per cent over that. The movement is not very heavy.

Q. What do you say as to whether the lumber cars are loaded to their capacity, or are you prepared to speak on that subject?

A. I don't know that I am in any way that would help this situation. The officers of the freight traffic department always insist that any commodity that is loaded must be loaded to the full capacity of the car. There are many times when through forced circumstances over which they have no control, such as the fact that the orders call for a specific quantity only, and the weight that covers that specific quantity is loaded into one car. But, as a general proposition, I can say that the cars were fairly well loaded toward their carrying capacity.

Q. I have heard it suggested that on account of the individual orders, that it was frequently the case that those cars were not loaded to their capacity?

A. I cannot say as to what percentage that would be, but I would not say that would be a very great percentage of the total.

I was going to follow along with salt and cement, and then I will be through with this statement.

3181 Salt shows a higher basis, substantially, in Arkansas. In some instances a little less basis in Iowa and in Illinois about the same, in some instances a little higher than is proposed by the maximum law of 1905.

The cement rates are substantially higher in Arkansas, in some

instances practically all of the instances, less in Arkansas; and substantially the same, in some instances higher, in Illinois, that the proposed maximum rate bill would make for Missouri.

Mr. HAGERMAN:

Q. You used the word "local" and as I understand you, you were using it in the sense of State business as distinguishing between local and through shipments?

A. It was used there to distinguish as between State and interstate business.

Q. What are the different classes of your interstate business, for instance?

A. You have first your interstate business, which simply passes through, using the State as a thoroughfare, so to speak.

Q. The class that does not stop at all?

A. That does not stop at all, but is exclusively through business. Then you have that which comes from outside of the State, and which has destination in the State. Then there is another class of interstate business, that which originates within the State and goes out of the State, and is exported out of the State.

Mr. CLARDY: That is all.

Mr. LADD: We should like an opportunity to look over
3182 these exhibits before cross examining this witness.

Mr. HAGERMAN: We do not like to go on with another witness before the cross examination.

The MASTER: I dislike to have that and yet I can see at the same time that a reference to these exhibits would require some preparation for a cross examination.

Mr. HAGERMAN: Let them go on with the cross examination until they finish everything but that, and look those over tonight. That covers but a small part of his testimony.

Mr. LADD: His testimony is principally based upon these exhibits.

The MASTER: In view of the character of the testimony as a whole, I am inclined to indulge the defendant somewhat in their preparation. I shall excuse this witness until tomorrow morning.

The usual hour for adjournment having arrived, the further hearing was adjourned until tomorrow, Tuesday, January 15, 1907, at 10 o'clock A. M.

3183 ST. LOUIS, *January* 15, 1907.

Met pursuant to adjournment as above on Tuesday, January 15, 1907 at 10 o'clock A. M., in the Federal Building in the City of St. Louis.

Present: Mr. Frank Hagerman appeared in behalf of the complainant.

Messrs. S. B. Ladd and John Kennish appeared in behalf of the defendant.

The following proceedings were had:

The MASTER: Before proceeding with the examination I would like to ask Mr. Stith whether it would be practical for him to prepare

a table showing a list of articles mentioned in the Act of 1905, which have been heretofore carried by the Missouri Pacific Railroad at rates less than those prescribed by the Act?

A. I think so. I think that can be prepared.

Q. If you can do that without too much trouble I wish you would and file it as an Exhibit in this case.

A. I think I can have such a table prepared.

Mr. KENNISH: I understood the Master's question to be, those commodities mentioned in the Act of 1905 in which the rates enforced by the railroad company is less than those mentioned in the Act?

Mr. HAGERMAN: We have a statement made up on the revenue basis upon that theory, just as we did in the Burlington case.

The WITNESS: I am inclined to think there may have been some statements prepared that would indicate not only the revenue but also the commodities from which the revenue is derived.

3184 The paper referred to above was offered in evidence and marked Exhibit 4, and is in the words and figures following, to-wit:

3185 Cross-examination.

By Mr. JOHN KENNISH:

Q. I understood you to state your official position is that of Freight Traffic Manager of the Missouri Pacific Railway Company?

A. I stated it as Freight Traffic Manager of the Missouri Pacific and the St. Louis, Iron Mountain & Southern Railroad Company.

Q. Not of the system?

A. I don't know what you mean by "the system".

Q. The entire Missouri Pacific Railway Company system?

A. I am Freight Traffic Manager of the Missouri Pacific Railway Company.

Q. Of course I do not intend to include the Iron Mountain or any other railroad owned by the same interests that own the Missouri Pacific, but simply the Missouri Pacific?

A. Yes, sir, I am Freight Traffic Manager of the Missouri Pacific Railway Company.

Q. How long have you held that position?

A. Since December, 1899.

Q. What position did you hold in the Missouri Pacific before that time?

A. General Freight Agent of the Missouri Pacific from the first of January, 1892, up to that time. And immediately prior to that for two years——

Q. That is as far as I wish to go. In both those positions your duty required you to have business with the freight department of the railway company?

A. Yes, sir.

Q. As Freight Traffic Manager you have had a good deal
3186 to do with the fixing of rates, haven't you, Mr. Stith?

A. Yes, sir.

Q. You stated yesterday the items which you took into considera-

tion in the fixing of rates, giving a number of different items such as distance and direction, motive power, etc., etc.: All of those items are summed up in what is considered the cost of handling freight, except probably that of competition which I believe you gave as one item: Is that correct?

A. They would be in fixing the cost, yes, I should say.

Q. The main consideration in fixing rates would be the cost of transportation, operating expenses, and that would be a reasonable return over and above the cost of handling freight: Would that be correct?

A. I should think so, yes.

Q. What rate would you consider reasonable, considered from the standpoint of what the company would receive over and above the cost of transportation on the given commodities?

A. What commodity have you especial reference to?

Q. Take any commodity, for instance?

A. Take the item of coal: The conditions surrounding the transportation of that particular commodity would seem to require a rate that in our territory would approach a half a cent a ton a mile, and in some instances even a greater rate than that, in my judgment, to make it compensatory to the railroad.

Q. Can you express it in percentages?

A. No, sir, I don't think I can.

Q. What are the general operating expenses as compared
3187 to the gross earnings?

A. I can give you in that connection only the results, for instance, of the operations of the railroad as set forth by the Auditor's figures, on that theory. Presumably the average would be say 70 per cent for operation.

Q. The net earnings in that case would be 30 per cent?

A. Yes, sir, I should say so. Of course there are many lines that are operated for less than that and unfortunately many of them require more. But that is a matter which can only be accurately shown by the reports themselves.

Q. I am not asking you about the books. But about what would be a reasonable rate. In fixing rates, would you consider that the earnings should give a return to the railway company of 30 per cent, over operating expenses, in order that the rates should be reasonable.

A. In fixing a rate?

Q. Yes, in fixing the rate for any given class of freight?

A. I don't know that I would go about it in just that way.

Q. I believe you said yesterday you could find the cost per ton per mile from the company's last annual report?

A. I did not say that. I said I could show the average earnings per ton per mile from the Annual Report.

Q. Here is your statement: "We can tell from our last year's report what our average per ton cost is, and we can tell what we must be guided by in trying to adjust our rates to see that we get fair earnings for what we do".

A. I wish to correct that: I did not mean the cost, be-
3188 cause I know,—at least I am satisfied in my mind—that to get the actual cost per ton mile would be almost an impossibility. That is, to take it and to identify the cost with reference to any particular class of traffic. I think that would be almost an impossibility. The figures I desired to refer to were the average earnings per ton mile shown in the annual report.

Q. Haven't you any way of getting at the cost of handling the freight, when you are adjusting rates on any given commodity?

A. I have my own idea about what the cost would be. We are guided by our knowledge of the situation as a whole. For instance, I would assume, if I were making a rate on coal, that the rate, as I said a little while ago, would have to approximate one half a cent a ton a mile to make a reasonable compensation for the company hauling it.

Q. How would that compare with the figures you gave of seventy per cent for net operating expenses and thirty per cent net earnings?

A. That is a matter of calculation. You can figure that the costs there—I should say if your average cost of handling your general run of business was 70 per cent, then your cost of handling coal, which is a commodity that moves in large volume, frequently in solid trains, would be probably less than 70 per cent. We simply say we think the average would be about 70 per cent. Unquestionably the cost of handling coal would be less than it would be for handling livestock, relatively.

3189 Q. So the net earnings in that case would be more?

A. Possibly.

Mr. HAGERMAN:

Q. Your estimate of 70 per cent was on an average?

A. Yes, sir, not on a specific item.

Mr. KENNISH: In fixing rates you consider it would be a fair basis to assume that the rates should be such that the company would receive for its net earnings about 30 per cent over operating expenses?

A. I take it that that might be a reasonably fair estimate. Based on the conditions that have prevailed during the last two or three years. It is a doubtful proposition whether that will be the case in the next five, or the next one or two years, because of conditions that are confronting railroad companies all over the country today.

Q. You are talking about conditions that have been?

A. Yes, sir, and you are talking about conditions that have been, for the purpose of fixing a rate that is to be charged in the future.

Q. If you don't think that is a fair basis, give what you think would be fair?

A. I think a reasonably fair basis for the State of Missouri are the Commissioners' rates, as I suggested, shown in their schedules.

Q. I know you testified that?

A. That is my judgment about it.

Q. I am asking you now, what percentage of net earnings should

bear the operating expenses, considering freight charges or rates generally?

3190 A. I could not undertake to answer that in any more definite form than I have. That is, the question of exact cost is more or less a mooted one—that is, exact cost; of course they can approximate it; all those items of accounting and operation, and outside of having a general idea of what those things should be, I hesitate to undertake to give a definite answer.

Q. The Interstate Commerce Commission gives the percentage of operating expenses to gross earnings, doesn't it?

A. I think they do.

Q. Do you know what their figure is?

A. I don't know that I do.

Q. About 67 per cent, isn't it?

A. That I do not know. I suppose those reports would speak for themselves. They are printed matters of public record.

Q. We know that, but we are asking now for your opinion as an expert, and I understood you to say at first that you thought a general average would be that the operating expenses should be about 70 per cent of the gross earnings?

A. Yes, sir.

Q. That would leave about 30 per cent net earnings to the company, speaking generally, freight earnings?

A. Yes, sir, that is what I said. I do not know whether the report to which you refer, the Interstate Commerce Commission's report, covers the western section or the eastern section or the southern section of the country, or whether it covers the average of the conditions that prevail as a whole over the United States.

3191 Beyond any question of doubt, the ratio of operation to earnings is quite a varying proposition and what might be fair in one of the groups that are used by the Interstate Commerce Commission would be confiscatory in another.

Q. Yes, we realize that. In fixing rates, I understood you yesterday say that sometimes conditions would be such that you might have to fix a rate below what would be compensatory to your road, on account of competition?

A. That is frequently true.

Q. You mentioned an instance of the shipment of salt from St. Louis to Washington, I believe, in which the rate fixed by your company is lower than the rate fixed by the Act of 1905: And I believe you gave it as your opinion that the rates fixed by the Act of 1905 were not compensatory; therefore, if you fixed a rate below that described by the Act, then the rate fixed by you on that commodity in that case would be less than compensatory to the company, wouldn't it?

A. I do not understand that the railroad either makes its money or loses its money, to any great extent, in the transportation of one particular commodity between two given points; but that the results they seek are the results as a whole. Now as to the rate on salt to Washington, as I recall it, there was only a half cent differ-

ence between the rate we had in effect at 5½ cents per hundred and that which the 1905 law would compel.

Q. But if the rate fixed by the law were less than compensatory, then necessarily the rate fixed by your company, which
3192 would be still lower than that fixed by the Act, would be still less compensatory?

A. It might be on that particular car. That rate on salt at present is 5½ cents. The Act of 1905 would make it six cents.

Q. That is only one example. There are probably many such cases where the rates as fixed voluntarily by the company are less than the legal rates, and would not be compensatory, as in that case. Is that true?

A. I should say there might be some more rates. The fact of the matter is, when that question was asked yesterday, I said that there were cases where the railroad if it desired to engage in certain classes of traffic might be and undoubtedly is compelled to take less than the 1905 rates would permit them to charge.

If you undertake to fix a hard and fast rule in the adjustment of freight charges, without any elasticity to meet conditions that are not in themselves fixed and rigid, you are going to put the carrier out of a good deal of business——

Mr. KENNISH: I would rather the witness would confine himself to answering the questions asked him. I believe I asked him if there were not many instances as the one mentioned, from St. Louis to Washington, in which the company voluntarily fixed rates less than the legal rates.

Mr. HAGERMAN: He is only making an explanation of the answer he has already given.

A. I do not intend to overstep the bounds, your Honor.
3193 So far as this rate from St. Louis to Washington being a voluntary rate, it is true it was printed by the officers of the railroad company, but it is compelled by conditions that make it an obligatory rate on them, or forego the business.

Mr. KENNISH:

Q. If the rate is less than compensatory, wouldn't it be good management on the part of the railroad company to forego the business rather than to undertake to lose money by doing the business?

A. I don't think it would be good business to do that. If I may be permitted to go a little bit beyond a direct answer—the policy of the railroad company is to be represented in the transportation of all classes of business, between all points which it serves. If you cannot haul a man's salt you probably could not haul his flour, and you would suffer loss through the diversion of other classes of business upon which you would make a reasonable fair return.

Q. Then it is a fact Mr. Stith, that in many cases the rates are voluntarily fixed by the railroad companies at less than the legal rates, even under the legal rates fixed by the Act of 1905?

A. That is true with reference to some commodities which are

handled on comparatively short hauls or which are handled under stress of competitive conditions beyond the control of the carrier.

Q. And outside of the Act of 1905 I suppose there are many cases in which your company even at non-competitive points fixes
3194 rates at less than the legal rates?

A. Presumably there are some; I would not say there are many.

Q. In cases where the rates are fixed by the company, these voluntary rates you have spoken of, at less than compensatory rates, the loss would be made up on other rates in which the company would be enabled to charge something more than what was barely compensatory on that article of freight?

A. I don't think that could be said to be true. If a railroad can locate an industry on its rails by bringing to that industry the raw material at a price they can afford to buy it at, delivered at their plant, and can in turn ship out the manufactured product at a compensatory rate to the railroad, the railroad would in all probability be willing in the first instance to make a less rate on that crude material than the statute, which is a rigid and inflexible rule, would permit. The trouble is fixing a legislative rate is, that the minimum rates are sought to be made——

Mr. LADD: I think the record will bear me out that our side has been very, very free from objections, and this gentleman, who is a very intelligent witness, went on at great length yesterday in giving his views and——

The MASTER: You have a right to interpose an objection when the witness proceeds to unreasonable lengths, beyond a fair response to a question.

Mr. LADD: He is going on to explain the conditions of
3195 making legislative rates. We don't want a speech in each answer.

Mr. HAGERMAN: Object specifically and let us see if in any specific instance it is so.

The MASTER: I will explain to the witness this: The rule is that you will answer directly and categorically the questions propounded, and when that is done, if an explanation is needed you have a right to subjoin such explanation, but not go out into a field not fairly and reasonably covered by the question.

Mr. KENNISH:

Q. You spoke of instances in which an industry was to be started, as an example of a case that would justify the railroad in giving a rate less than would be compensatory, in view of the two shipments that might result from that industry: But the case we referred to, the shipment of salt from St. Louis to Washington, was not a shipment of that character, was it, Mr. Stith?

A. No, sir.

Q. The result of your reducing your rate in that case would rather have the effect of shutting out an industry, namely, river transportation, rather than to establish one?

A. It would have the result of meeting the river competition. If the railroad did not meet the river competition it is fair to assume that the river would raise their rate to meet the railroad basis, before they got through with it.

Q. And if you put your rate low enough it might have the
3196 effect of destroying the river competition entirely, might it not?

A. It might; that is a possibility. But the boats have been in the Washington trade for thirty years and they are still there.

Q. You spoke of the Act of 1905 yesterday as fixing rates which in your opinion were not compensatory to the railroad for the service rendered, for the transportation of the commodities covered by the Act?

A. Yes, sir.

Q. Can you give the Master about the relative proportion of freight, intrastate freight, covered by that Act, as compared with the interstate freight?

A. I have the opinion that these commodities that are involved in this 1905 rate law would represent somewhere between 60 and 70 per cent of the intrastate business. I may be mistaken in that. The estimates are to some extent uncertain, or at least my estimates are to some extent uncertain, for the reason that the volume of the farm products, for instance, is a variable proposition. One year there may be a great wheat yield and the next year there may be a great corn yield, and that would effect those percentages.

Q. Do you give that as the percentage of the tonnage or the percentage of revenue on intrastate freight?

A. I think your question was as to the percentage of total intrastate business. I tried to make my answer fit the tonnage side of that question.

3197 Q. You are familiar with the statement that your company filed in this case, aren't you?

A. What is that?

Q. The statement showing earnings and expenses of the Missouri Pacific Railroad Company for the doing of freight business in Missouri?

The MASTER: That has not yet been filed, Mr. Kennish.

Mr. KENNISH:

Q. The statement submitted to the defendant in this case, Mr. Stith?

A. I have not seen any statement of that kind, that I recall.

Q. I will hand you one. You have seen this statement, haven't you?

A. (After examining paper handed him.) No, sir, except to see one figure in here. I had my attention called to one figure.

Counsel for Complainant here offer in evidence a paper consisting of five sheets, copies of which have heretofore been furnished counsel for Defendant, and which is marked "Complainant's Exhibit 5."

The paper referred to is in the words and figures following, to-wit:

3198 Mr. KENNISH:

Q. Mr. Stith, please look at the first item on page one of Exhibit 5 entitled "Earnings on commodities affected, at old rates $212,777.10, for 1904." Look at page 3 of the same Exhibit, the first item, which is "the 1st of January to the 31st of December, earnings from freight, local $1,562,083.11": That would show that the earnings on the freight included in the Act of 1905, under existing rates was only about 13 or 14 per cent of the total intrastate freight handled on your road, wouldn't it?

A. Those figures would apparently show that.

Q. In stating that the rates prescribed by the Act of 1905 in your judgment were compensatory, did you mean that all the rates prescribed in that Act were of that character?

A. My judgment is that they are all too low, unreasonably low. That some of them, many of them, are compensatory, so that the result from the tariff as a whole would in my judgment be compensatory.

Q. Some of the rates prescribed by that Act you think would not be compensatory, but would yield some return above the cost of handling the traffic?

A. I think that might be said to be true with reference to some of these rates.

Q. And as I understood you yesterday, your answer would indicate that the rates on those commodities as fixed by the schedule put in force March 1, 1904, were reasonable, equitable and just?

3199 A. I don't want to say that all of the commissioners' rates, which is the schedule of March 1, 1904, are satisfactory, or considered the full measure that they should be; but taking the results from that tariff as a whole, it is as reasonable and satisfactory as could be expected.

Q. Didn't you state that the rates as fixed by that schedule were reasonable, equitable and just; and that they were relatively reasonable?

A. I believe I did, yes, sir.

Q. That would include the commodities covered by the Act of 1905?

A. If they were included in the rates of 1904, I understand they were.

Q. Do you know about what percentage of reduction was made by the Act of 1905 on those commodities included in it, taking the Act as an entirety?

A. I have some figures, but they are not, I think, in such shape that they could be said to represent the situation as a whole.

Q. I just ask for the average of the reduction affected by that Act. If you haven't it I don't care for you to make any estimate on it now.

A. To the best of my recollection we figured the reduction would be somewhere about 25 per cent.

Mr. LADD: When you say 25 per cent it would mean a reduction of 25 per cent in the revenues of your company for the transportation of those commodities?

A. No, sir, in the rates.

3200 Q. It would mean a reduction of 25 per cent in your revenue if on the one hand you charged the rates that were in existence before and on the other hand you conform to the law as it is now?

A. Well, not exactly. You might take, if you please, the rates for the same mileage under the rates of 1904, and compare them with the rates for an equal distance for 1905, and your percentage of decrease will be shown by those figures. That is, the decrease in rates. When you come to the application of the mileage rates of 1904 you are met with the same conditions that you meet in the application of the rates for 1905, because of the numerous short line distances that the long lines are compelled to use in making their rates. So you do not get the full effect even, of every one of these mileage scale of rates, and your revenues from them are not derived from the figures in the tariffs themselves, or the distances which your road haul the freight.

Q. I do not mean to interrupt Mr. Kennish's cross examination but I wanted to understand what you meant when you said 25 per cent.

A. The figures that were filed yesterday show percentages of decrease in the St. Louis shipments in the St. Louis-Joplin rate that range all the way from eight per cent in the case of lime and cement, to 43 per cent in the case of the rate on horses; 34 per cent on the rate on flour. The percentage of reduction at Nevada would range from 12½ per cent on lime and cement to 50 per cent on horses.

3201 Q. When you say 25 per cent reduction, do you not mean 25 per cent reduction in your revenue, in the practical application of the Act of 1905, to the business of your company?

A. No, sir, I meant it as applied to the rates in themselves.

Q. You kind of strike an average as an abstract proposition on those rates?

A. No, sir, not as an abstract proposition. You can figure it out with mathematical precision, if you use the same rate on the tariff.

Mr. HAGERMAN: Mr. Stith has given the figures actually in the fourth item there.

Mr. KENNISH: That would indicate your gross earnings would be on that traffic whether it is 25 per cent or 30 per cent, less than the rate prescribed by the Act of 1905?

A. I gave my answer as to the best of my recollection. I haven't had those figures for a long while. But in reading from this Exhibit 3, the figures might be said to apply as the actual earnings, because the rates we used in connection with Exhibit 3 would be the actual rates in effect. That would apparently make a larger average reduc-

tion than the figures I have stated. On Exhibit 5, page one, it shows the results of 1905, as 32.83 per cent decrease.

3202 Q. Would it amount to a gross reduction on the articles covered by that Act, of as you say about 30 per cent?

A. I should say so from these figures I have seen here this morning.

Q. And that would be about the amount which you stated a while ago was about what a rate should bring as return above operating expenses, as net earnings to the railroad company for the freight carried?

A. That is my idea about it.

Q. So if that figure was about right, if the operating expenses would be 70 per cent of the gross earnings, and if the rates on the articles covered by the Act of 1905 were fair and reasonable and just, and would yield about 30 per cent net earnings, then those net earnings would be about wiped out, in your judgment, by the reductions made in this Act of 1905. That would leave the company without any net earnings?

A. It would do even more than that. You take the 70 and the 30 per cent and in giving those figures I had in mind the general proposition, not the Missouri situation alone. It is my belief that you could not conduct your Missouri business on 70 per cent of the earnings from Missouri business, not by any means.

Q. Assuming those figures would apply to the freight business in Missouri, that would be the effect of it?

A. But that would not be a fair estimate. That is a general proposition.

Q. You stated, I believe, that the rates fixed by the commissioners in the schedule put in effect in 1904 were fair rates and you stated they were fair relatively: What did you mean by the term

3203 "relatively fair and reasonable"?

A. I mean by that, that they were adjusted with reference to the rates in surrounding States, and they were relative in that sense. The rates of 1904 were protested against by the carriers just as vigorously as they could, because they claimed there was no need of any reduction of rates.

Q. You say they were opposed?

A. Yes, sir, protested right straight through, and almost brought it into court.

Q. Almost as vigorously as the Act of 1905?

A. Yes, sir.

Q. And yet you say, notwithstanding, that they are reasonable and fair?

Mr. HAGERMAN: That is not a fair presumption. He says taking into consideration all the surroundings, the interstate features, and so on. I object to the question as not stating what the witness said.

The MASTER: I think that is fair cross examination.

A. The rates of 1904 did not have the effect of upsetting the through rates and creating the disastrous loss that would come to these companies, and our company particularly, on its through business, because of the effect on the through rates.

Mr. KENNISH:

Q. When you stated that the Act of 1905 prescribed unreasonably low rates, and that the schedule of 1904 prescribed rates that were fair, reasonable, equitable and just, did you mean to indicate by
3204 that answer that the rates were reasonable under the schedule of 1904 and that they would render a fair return to the company operating under those rates?

A. I meant by that to say that the rates of 1904 were reasonably adjusted with reference to the rates in other sections adjacent to the State of Missouri, and from that point of view they were fair. When it comes to the application of those rates to strictly intrastate business, it is doubtful whether they are fair to the railroad.

Q. You knew very well they were not intended to apply to anything but intrastate traffic?

A. I expect that was the intention of the people who made those rates, but that was about the ultimate outcome; it did not affect many of the through interstate rates.

Q. I will read your answer of yesterday and see if you want to modify it or to stand by it as given at that time:

"Answer: The Commissioners' tariff was made after extended considerations by them of the conditions applying in the State, after conferences with railroads, and the commercial organizations, and the comparison of rates with those in other sections of the country, and especially the adjacent states. And it has been my opinion that they were reasonable, fair rates, equitable rates."

"Question: Have you an opinion as to whether they are relatively reasonable"?

"Answer: My intention was to cover that point and to say that in my judgment they are not only reasonable in themselves but relatively so".

3205 You answered further: "I think it is a very equitable adjustment both as between communities, because it is a mileage tariff, and I think the adjustment is also a reasonable one for the commodities that are moved under it".

Didn't you mean by those answers that those rates as bearing upon the interstate traffic were reasonable to both the shipper and the carrier?

A. I presume that would be a fair construction of that statement.

Q. Isn't that just exactly what the statement says, without any construction of it?

A. Yes, sir.

Q. Look at Exhibit 5, page one, under the head of "net earnings from all local freight traffic in Missouri at old rates": Those were the rates fixed by the Board of Railroad and Warehouse Commissioners in the schedule of 1904, weren't they?

A. Presumably so, yes, sir.

Q. This statement rendered by your company and filed as Exhibit 5, shows that under the old rates your company lost on the intrastate traffic $291,546.55 for the year 1904?

A. Yes, sir.

Q. Were you Traffic Manager at that time?
A. Yes, sir.
Q. Were you before the Railroad and Warehouse Commissioners when they had the hearing fixing those rates?
3206 A. I was before them once, I think. But not during the period when they were—My appearance before them was in their preliminary hearing. I want to state right here that there are no local State rates, in my judgment, in any of the territories or surrounding States, I might say, that are really compensatory, and our experience is that our local business never pays the cost of operation any place.

Mr. LADD: I move that be stricken out as not at all responsive.
Mr. HAGERMAN: It is right in line with the statement we furnished.
The MASTER: I think it is entirely germane to the subject under examination and it is proper for the witness so to make the statement. I will overrule the motion.

Mr. KENNISH:

Q. Would you say, as an expert Traffic Manager, that a rate was not compensatory and would not give the railroad company a reasonable return for the service, was fair, reasonable, equitable, and just?
A. The answer to that would need further qualifications. You could not, in Missouri, for instance, make a rate that would be in itself compensatory and fair, in all probability, without making a rate that was very much higher than the rate in effect in the adjoining States. I don't believe it is possible under conditions that prevail today to bring such a result about.
Q. Don't you know that the rates in the adjoining States have nothing whatever to do with the rates in Missouri, so far as
3207 what compensatory rates in Missouri would be: That conditions are different and that the rates in one State are in no way legally effected by the rates in the other State?
A. I have been told that a great many times, but I never went before a Commission yet that did not pull out the rates all over the country and get at the lowest rate in existence and reduce the rate in whatever State was being considered, to the minimum basis.
Q. As I understand you, even if a rate was not compensatory in Missouri, if it were higher than a rate in an adjoining State, you would say it was fair, reasonable and just?
A. No, sir, I would say it might be.
Q. Even though it was not compensatory?
A. Even though it might not be compensatory on your strictly intrastate business.
Q. You know that these rates do not effect anything but intrastate freight rates?
A. On the contrary, I know they do effect interstate rates invariably and have an influence upon them.
Q. Don't you know that legally they do not effect the interstate traffic, that is so far as reducing or increasing interstate rates?

A. I have heard that stated a good many times, but it does not work out in practice, Mr. Kennish.

Q. I would like you to give the Master what you consider a rate that is fair, equitable, reasonable and just, as applied to Mis-
3208 souri intrastate traffic alone, independent of any other State?

A. I think the rates on intrastate traffic should be such as to afford the operating cost to the line and a reasonable return on the investment that is made in the shape of the railroad and its facilities.

Q. Wasn't that what you meant in your answer yesterday when you said that the rates fixed by the Board of Railroad and Warehouse Commissioners in 1904 were of that character?

A. That is not exactly what I meant by that. I meant they were as reasonable as all the circumstances and conditions would permit. I recognize that if you made a basis of rates in Missouri that would bear what I understand to be the relation to intrastate business that they really ought to bear, they would be considered abnormally high, and when I said what I did as to reasonable and equitable rates, I took in the situation as a whole. It has been within my knowledge, or at least I have always supposed, that the intrastate business was almost invariably done at a loss. That is not only true with reference to this State but other States.

Q. What do you say then about the schedule of 1904? Do you say the intrastate business done by your company was done at a loss under those rates?

A. This statement shows that was the case (indicating Complainant's Exhibit 5).

Q. And you mean to say those rates, notwithstanding the company sustained a heavy loss in handling that traffic, were
3209 fair, reasonable, equitable and just, and relatively so?

A. I think they were as much so as could be obtained under all existing conditions.

Q. As could be obtained?

A. Under all existing conditions.

Q. What has that to do with it? What could be obtained? Is not the matter of reasonable weight independent of surrounding conditions.

A. I might qualify that; I did not mean to say the carrier should go out and seize what he could get. But I mean all the circumstances that were taken into consideration by the Commission, permitting them to make these figures, which was all the Railroad Companies could obtain.

Q. And your opinion now is, so far as bringing a reasonable return to the company is concerned, that they are not reasonable, they are not equitable and are not just?

A. On intrastate business that is my opinion.

Q. What kind of business were you speaking of yesterday when you gave your answer?

A. I had the general business of the company in mind. Interstate business that would be affected by those rates, not only inter-

state through business, but also interstate business that originated on the line or had destination on the line in Missouri.

A. As that schedule made a reduction in the rates existing before that time, it could not help the carrier out on interstate traffic in any way, could it?

3210 A. The local or State rates that are in effect prior to 1904 tariff were higher than the basis upon which we were making our interstate rates, so the effect of the 1904 tariff on our interstate business was comparatively slight. The conditions were such that the railroad company felt that they would have to make some reductions in their freight rates.

Q. What conditions do you refer to?

A. I refer to the conditions, the state of the public mind apparently, as evidenced by a resolution passed by the legislature.

Q. Do you think the railroad company would be compelled to take a reduction made on their freight rates below what is reasonable?

A. It seems so in this case here.

Q. Yesterday you stated that the schedule was reasonable?

A. I made that statement comparatively, taking into consideration the situation as a whole. The State rates have a direct effect upon the interstate rates. As long as that effect is not too detrimental, rather than be at war with the committee all over the State at large, the railroad company would prefer to make some sacrifices or consent to the putting into effect of a reduced rate.

Q. As that schedule made a reduction in the rate, it could not have a beneficial effect on the interstate traffic; all it could do would be to leave it where it was?

A. To leave *ot* where it was, with a few, comparatively few changes.

3211 Q. It could not have any effect on the interstate rate?

A. No, sir, I think not.

Q. How would that have any effect, in your opinion, as to the schedule being reasonable?

A. The volume of interstate business directly affected by the State rate is so much greater than the intrastate tonnage affected, that a schedule of rates that would not adversely affect the interstate rates would not be so objectionable as one that would affect those interstate rates.

Q. And for that reason it would be considered fair, reasonable and just?

A. It would, so far as its effect on the interstate business is concerned. The Missouri lines have so long faced a deficit in their local business, apparently, that they have gotten used to it.

Q. Do you state that your company did lose, so far as you know, the amount shown on page one of Exhibit 5, $291,546, in the year 1904, on the intrastate traffic?

Mr. HAGERMAN: I submit Mr. Stith has stated he did not prepare this exhibit and has not been over the figures; and it is not fair to examine him in detail about something he does not know anything about.

The MASTER: And further, these matters pertain particularly to the Accounting Department, and not his own. Still, if he has any opinion he may give it.

3212 A. I can state only what the figures show. I did not make them up and I would not testify of my own knowledge that they are correct, because I really do not know.

Mr. KENNISH:

Q. In fixing rates on freight, isn't it your duty to know whether or not the existing rates are resulting in a profit or loss to your company?

A. Yes, sir, and I try to know that.

Q. So you would have to have some knowledge of whether there was a deficit of about $300,000 on the existing rates, when you are proceeding to make any new rates?

A. You understand, of course, that the rates on intrastate business in Missouri are not made by the railroad companies.

Q. On the intrastate?

A. Yes, sir.

Q. I understood you yesterday to say that in some instances they were?

A. And you understood also the conditions under which those rates were made.

Q. But even when they are made under conditions, didn't you also state that you could find out from the report of the company for the preceding year the per ton per mile cost of the traffic?

A. If I said that I did not intend to say it. I intended to say I could ascertain from the reports the average rate per ton mile. If I said "Cost" I did not intend to, because that was not what I had in mind.

3213 Q. But you did mean to say that in fixing rates you would consult the report of the company for the preceding year to get such knowledge as would enable you to properly fix the rates?

A. I would have in mind the result of the previous year, but that might be influential in a case such as you cite, where a rate was made less than the commission basis, or the statute rates, and it might not. There might be other controlling reasons that would permit a diversion from the State rate. That is from the State maximum rates.

Q. Your answer, I believe, was "We can tell from our last general report what our average per ton mile cost is, and we can tell what we must be guided by in trying to adjust our rates to see we get fair earnings for what we do"?

A. I wish to correct that by saying that my intention was to use the words "Average per ton mile earnings," not "costs" as I explained to you this morning.

Q. You would have to know something about the cost of handling the traffic in order to know what rate to fix?

A. We would have to have some sort of general knowledge of it, yes; we ought to have.

Q. And I believe you stated you went before the Railroad and Warehouse Commissioners when they were considering this schedule of 1904, as representing your company?

A. Yes, sir.

Q. And you would certainly have knowledge of the cost of interstate traffic in presenting the railroad company's side of the case to that Board?

A. I did not present the railroad company's side to the
3214 Board in connection with those rates. I said I had been to one informal conference, and that to the best of my recollection is the extent of my personal contact with the commission or attendance at any hearings in connection with this Missouri rate adjustment. The matter was handled by another man connected with the company, the detail of all the hearings.

Q. I will ask you whether or not as Traffic Manager of your company you had knowledge of the fact, and if so when you obtained it, that your company was losing in the neighborhood of $300,000 a year on the intrastate freight business?

A. I have always had knowledge, at least in an indefinite way, that the State business did not pay. That has been stated upon numerous occasions in connection with various and sundry investigations and litigations. I had possibly an indefinite idea as to the amount of these deficits. I had some information, of course; I have these figures here before me now, and, as I say, the only time I have within my memory seen this paper before it was submitted to me this morning, was yesterday afternoon when simply one line of figures was pointed out to me (indicating Complainant's Exhibit 5).

Q. Did you know before that of the amount of the deficit in your earnings on intrastate traffic?

A. In an indefinite way, but not as to the detailed figures.

Q. You stated, I believe, that the rates by that schedule of 1904 were less objectionable than a lower rate would have been,
3215 because they did not adversely affect your interstate rates: In what way do you now say they would affect your interstate business?

A. They would affect our interstate business if the rates that are shown in that tariff for 200 miles in any way changed the rates that were then in force between the Mississippi and the Missouri points, or in other words, between Hannibal and St. Joe.

Q. The interstate rate would be affected by a reduction of the State rate only in such cases as the interstate rate would be the sum of the local rates?

A. Well, they might be so in part but not in whole. That is, the effect would not be exclusively confined to the places where the combination of locals was affected that way.

Q. In other words, Mr. Stith, if the sum of the local rates after the reduction had been made on the interstate rates, were more than the interstate rate, the interstate rate would not be affected in that case?

A. No, sir, in that case it would not be affected.

Q. And even if the reduction would make the interstate rate more than the sum of the locals, couldn't you still keep in effect the higher interstate rate than the sum of the locals?

A. No, sir, I don't think we could keep in effect any length of time, certainly not as a permanent adjustment, an interstate rate that is more than the combination of the intrastate rate, and an intrastate rate. As a matter of fact the Interstate Commerce
3216 Commission have ruled that the combination is to be considered the maximum.

Q. Take it in the case of the State of Iowa: I will ask you if it is not a fact that the interstate rate from the Mississippi river to Council Bluffs is not higher than the local rates between the same points?

A. Between the Mississippi river? No, sir, I don't think so. The local rate in Iowa applies simply between Iowa points. It does not apply from what we call the Mississippi river, which is the east bank of the river, to the west river. On the other hand there might be instances where the Iowa local distance tariff rate for the mileage across the State of Iowa is less than the so-called Mississippi river-Missouri river rate; I believe it is so.

Q. That is, the interstate rate across the State of Iowa would be higher in certain instances than the State rate?

A. Yes, sir, within the borders of the State, the whole distance across the State. The interstate rate is made up of transfers at both rivers, in addition, so far as the service is concerned, and the charges are concerned, in addition to the State rate—the intrastate rate across the State.

Q. I will ask you if it is not a fact that the rates from the west bank, or from either bank of the Mississippi to the Missouri river points are the same through Missouri and Iowa?

A. You say from the west bank?

Q. Yes?

3217 A. I don't know that I would care to undertake to answer that question regarding the Iowa situation, and put it in as definite a form as that, without an investigation.

Q. On interstate rates as they stand today, I will ask you if on first class freight the rate is not 60 cents per hundred across from the Mississippi River to the Missouri River, either in Missouri or Iowa?

A. The rate on first class freight from Dubuque, Iowa, to Omaha is 60 cents. The rate from St. Louis to East St. Louis or Kansas City is 60 cents for first class freight.

Q. What is the State rate in Iowa from points on the Mississippi River, across the State, say to Council Bluffs, the same distance in which the 60 cents rate obtains on the interstate business?

A. I don't know. I will answer that as I did before; that I cannot undertake to answer about these figures without specific inquiry into each case. I do not carry those figures in my head and memorize them.

Q. Do you know, Mr. Stith, about how the interstate freight not covered by the Act of 1905, would compare as to rates in Missouri

and the adjoining States, to which you referred yesterday in making your comparison?

A. I don't know that I could give you a very specific answer to that. In a general way, there is a favorable comparison, as I recall it. I have seen a comparison of the actual figures, but I could not keep them in mind. I do not undertake to make a specific statement.

Q. Isn't it a fact, that as to what we call class rate, freight coming within that term, bears a much higher rate in Missouri than
3218 in Iowa, Illinois or Arkansas?

A. That question I would not undertake to answer with any degree of certainty, unless I had reference to the figures to show. The figures will speak for themselves.

Q. In speaking yesterday of the increased cost of local traffic as compared with the through traffic, you referred to what you called purely local traffic, as being more expensive in the handling than through traffic: What did you include in the term "purely local traffic"?

A. I should say that is what you called intrastate traffic. In other words, business what has origin and destination within the borders of the State.

Q. In railroad parlance, does not the term "local traffic" refer more particularly to such traffic, whether intrastate or interstate, as is carried in what are called "local trains"?

A. Well, it depends on who makes that statement. If it is a transportation man he will refer to his train service; if a traffic man, he will refer to the character of his business. Local traffic has generally been understood to mean what is purely local to any one line. It might be local traffic and still be interstate traffic.

Q. And refer to such traffic as is carried on trains that stop at stations and receive and deliver freight?

A. Yes, sir, but those trains might be through trains in part.

Q. But as a rule——

A. They would have to stop to receive and put off business,
3219 there is no question about that. But they might, however, be through trains and still be handling that class of business between any two given points.

Q. They would be through trains that would handle State business?

A. Some local business.

Q. Trains running between Kansas City and St. Louis——

A. Or Sedalia.

Q. Carrying freight in carload lots might be through trains?

A. And local traffic might be carried part way on through trains, and frequently is.

Q. The relative cost of State and interstate traffic depends largely on the amount of each that is done on those local trains, doesn't it?

A. I presume that is one element that enters into it. The question of cost, as I have said before, I have not any detailed information or ideas as to what that might be. I have only a general knowledge.

Q. What would be the main items in the figures of the cost of local traffic as compared with through traffic?

A. Giving my own personal views in the matter, in handling your intrastate traffic you are compelled by your charter to provide certain train service. You are compelled, of course, to provide the necessary station service, tracks, and the labor that is necessitated to operate your trains, to handle that local service. That you are compelled to maintain to a certain extent if you did not have any through traffic at all.

3220 Q. You would be compelled to maintain it if you did not have any State traffic?

A. No, sir, you would not have any railroad if we did not have any State traffic, and, consequently, would not have any expense.

Q. You say you would not have to maintain any of these things you have mentioned?

A. As a primary proposition I would consider that your State business is the basis for your having a railroad. The fact that you handle interstate business over that State railroad is secondary and not primary. In other words, if you take out a Missouri charter for a Missouri railroad between two Missouri points, you must equip your line first to do that local business.

The MASTER: Is not that question wholly an academical one. The railroad is established and is doing both classes of business and is run for the purpose of doing both classes of business. Isn't it more proper to inquire into the question of the proper expense of doing those two classes of business, than to attempt to discuss the merely academical question that one is primary and the other is secondary. What profit is there in a discussion of this sort.

Mr. LADD: The railroads in this State are just as much bound to deliver interstate freight at Warrensburg as any other place, by law.

The MASTER: The object of this investigation is, if pos-
3221 sible, to separate both the revenues and the expenses and adjust them relatively to each other: That is the primary object of this investigation. I do not see much profit in a discussion of this sort.

Mr. KENNISH:

Q. Would not that depend a good deal on the relative amount of business done at those stations, whether State or interstate, as to which was responsible for the company's having to go to that expense to provide its conveniences for the traffic? Suppose the interstate business at any station far exceeded the State business at that station: Would you still say those conveniences to handle the traffic at that station were necessitated by reason of the State traffic?

A. I should say so promptly, yes, sir.

Q. Take it in the matter of livestock, you referred to that extensively yesterday: I suppose your railroad has its conveniences for the loading and unloading of livestock at every station of any importance in the State of Missouri: Is that correct?

A. Yes, sir, that is correct.

Q. Livestock is shipped mainly to the markets at Kansas City and East St. Louis on your line?

A. Well, that is true; but when those facilities were originally established the movement was largely within the State.

Q. When they were originally established?

A. Yes, sir.

Q. What difference does that make? You have them now and you use them now?

A. Yes, sir, that is true.

3222 Q. And you use them for interstate business, do you mean to say the company is put to the expense of establishing and maintaining them because of the State traffic?

A. I realize that livestock that moves from stations on the Missouri Pacific to the National Stock Yards at East St. Louis is interstate business. I realize that stock that moves from Missouri stations to the Stock Yards at Kansas City may be interstate business. But the conditions are controlled entirely by the State considerations. That is, as to rates and as to service. And originally the deliveries were made within the confines of the State.

Q. Would that make any difference if it was in fact interstate business?

Q. If you are referring to providing certain facilities for doing your State business, which you are, it seems to me it would be fair to say that the State business would be chargeable with the preponderance of the cost; because the extra or outside business you do through those same facilities is incidental.

Q. Yes, but if the outside business as in the case I have mentioned, is far in excess of the State business, why do you say the State business can be chargeable with that expense, instead of the interstate business, which does a far larger business?

A. You have singled out livestock, which is a peculiar trade. So far as employés—the Station Agent, is concerned, for instance, he must be employed whether we do any interstate business

3223 or not. The telegraph operator who takes and issues train orders, must be employed if we do not do any interstate business. Your terminal stations at St. Louis or Kansas City, or Sedalia, have got to be provided, to a greater or less expense, if you did not do any interstate business to or from those points.

Mr. LADD:

Q. And just so if you did not do any State business?

A. I do not view it that way. There is not any charter requirements as to that, as I understand it.

Mr. KENNISH:

Q. Assuming the facts would show that your road in Missouri did an interstate business of about 86 per cent of its entire freight business, and that about 30 per cent of that was what we term "Through interstate" business, that is, freight that would pass entirely across the State, leaving about 50 per cent of interstate freight that would originate or terminate at stations in Missouri, as compared with

about fourteen per cent of intrastate freight: Would you say under those facts that the expense the company was required to go to in providing stations, telegraph service, and such costs as you mentioned, was wholly on account of State traffic and not interstate?

A. Why, I think of course the volume of interstate business would be influential in a matter of that kind.

Q. The volume of the interstate business done at those stations——

A. But it need not be to such an extent, in my judgment, as to control the expenditures to the extent that
3224 you might so charge the bulk or greater part of the cost of those facilities, and the operation of that line, to the interstate business.

Q. It ought to control to the extent of charging the expense to the proportion of each kind of freight done at that station, shouldn't it?

A. I don't think so.

Q. You think State freight ought to bear a larger proportion of the expense relative to the amount of business done at the station, than interstate?

A. Undoubedly.

Q. Notwithstanding the service rendered on the interstate business would be just as much or more as the service on the State business?

A. I do not view the services in that light, but I think a much greater charge should be made relatively against the State than would be made against interstate business.

Q. Why?

A. For the reasons I have stated.

Q. For the reason that the road was first built to do State business and that the road would have to have these officers even if it did not do any interstate business?

A. Yes, sir, that is my opinion about it.

Q. And that is the only reason you can give for taxing the State traffic with a larger proportion relatively of the expense than the interstate business?

A. (No answer.)

3225 Q. Do you know what proportion of less than carload freight done in the State of Missouri is interstate and what is intrastate traffic?

A. I do not know it in actual figures, no, sir.

Q. Can you give an estimate on the percent of less than carload freight that interstate bears to the carload interstate freight?

A. Not without some investigation as to it.

Q. That would determine largely the question of the increase of the cost of the intrastate freight as compared with interstate traffic, wouldn't it?

A. It might, yes.

Q. Isn't it a fact that the increase in the cost of less than carload freight is largely in excess of the cost of the carload freight, whether it be State or interstate?

A. There would be a difference, yes, sir.

Q. Do you know what would cause that difference, or are you familiar with that branch of the freight business?

A. I have my own ideas about it. I did not take up the detailed cost of service.

Q. It would be difficult to give an intelligent opinion unless you are familiar with these details?

A. It would be very difficult for me.

Mr. HAGERMAN: I want your honor to understand that we did not put Mr. Stith on as an expert. He answered on direct examination only in a general way. He never went into details.

The MASTER: I would not feel justified to confine him to answering only matters on which he was examined, and even
3226 so I am not positive that this is not in line with the direct examination.

Mr. KENNISH:

Q. So you have no knowledge of the proportions of carload and less than carload interstate, and carload and less than carload intrastate traffic done by your company, as I understand?

A. I have not detailed knowledge of those percentages of less than carload versus carload freight.

Q. You have no knowledge of those facts?

A. I have not the detailed knowledge of those figures.

Q. As I understood you, it would be necessary to have the knowledge in detail in order to give an intelligent opinion on that subject?

A. As to these figures, yes, sir, I think so.

Q. Have you a copy of this sheet from which you read yesterday, in making a comparison of the rates between the States of Missouri, Iowa, Illinois and Arkansas, Exhibit 4?

A. Yes, sir, I have that.

Q. That comparison was made between the States named, as to the rates on the commodities included in the Act of 1905, in Missouri, and the rates on the corresponding commodities in the States of Iowa, Illinois and Arkansas?

A. Yes, sir, that is what the statement shows.

The usual hour having arrived, recess was here taken until two o'clock P. M.

After recess on Tuesday, January 15, 1907, the following proceedings were had:

3227 The Cross Examination of Mr. W. C. STITH, continued as follows:

By Mr. KENNISH:

Q. Mr. Stith, you spoke about the density of traffic as affecting freight rates: What did you mean by "Density of traffic"?

A. I mean the volume in which it moves.

Q. Would it be represented by the tons per mile of railroad in a given State?

A. Yes, sir, I think so.

Q. How is the density determined?

A. Well, I take it in some such *way* as this: The total number of tons moved over the mileage is calculated, and that determines the density per mile of road.

Q. One rule resorted to is the population of the State per mile of railroad in the State, isn't it?

A. That does not determine the density of tonnage. That would determine the density of population per mile of road.

Q. But is not that one way of determining density of traffic?

A. I take it that might be applied to the passenger traffic, yes; and it probably and undoubtedly would be indicative as to the freight business, because the greater the population per mile of road, the greater the consuming power of that population. It is indicative but not conslusive.

3228 Q. In the States compared by you yesterday, Missouri, Illinois, Iowa and Arkansas, what is the relative population per mile of railroad in those States, if you know?

A. I cannot give you the exact figures, but my impression is that they stand, Illinois, first; Iowa, second; Missouri, third, and, Arkansas, fourth.

Q. You think the population per mile of railroad in Iowa is higher than in Missouri?

A. I was of that opinion yesterday.

Q. Have you looked that matter up, Mr. Stith?

A. Not lately, not for some time.

Q. You would not undertake to give a definite opinion on that matter, comparing the present, as to Iowa and Missouri?

A. I could get that information for you and give it to you definitely beyond any question of a doubt.

Q. I wish you would look at Exhibit 4, which makes the comparison of the rates *of the rates* fixed by the Act of 1905 and the articles covered by that Act, as compared with the rates on the same articles in the States of Iowa, Illinois, and Arkansas?

A. Yes, sir.

Q. Take first the case of wheat: Wheat shipped a distance of 25 miles shows a higher rate in Missouri than the rate in Illinois for that distance, doesn't it?

A. Yes, sir. That is, these figures are calculated per car of 40,000 pounds?

Q. Yes?

A. Yes.

3229 Q. The same quantity of freight is supposed to be shipped the given distance here in each case, I believe, in making the comparison?

A. Yes, sir, it is a comparative statement; that is correct.

Q. And on corn for a distance of 25 miles, the rate in Missouri is higher than in either Illinois, Iowa or Arkansas, I believe?

A. Yes, sir, that is true.

Q. And for a distance of 50 miles on corn it is higher in Missouri

than in Arkansas or Iowa and is the same rate as in Illinois, I believe?

A. That is what it shows here.

Q. On flour for a distance of 25 miles, the rate in Missouri is higher than the rate in Illinois for that distance?

A. Yes, sir.

Q. And is slightly lower than the rate in Iowa; and lower than the rate in Arkansas, I believe: That is right, isn't it?

A. Yes, sir.

The MASTER: I have not a copy of that Exhibit and I wish to be informed whether the Missouri rate there is the rate provided by statute or the existing rate?

Mr. KENNISH: The rate provided by the Act of 1905.

Q. I believe the rates in Illinois are the rates as modified last year in that State?

3230 A. I found that to be the case. July 15, 1906 the rates which are the reduced rates.

Q. On line per carload of 30,000 for 25 mile distance, the rate is higher in Missouri than in either of the other three States, as shown by your comparison?

A. That is true.

Q. And the same commodity shipped a distance of 50 miles, the rate is also higher in Missouri than in either of the other three States?

A. Yes, sir; 30 cents a car higher than in Illinois.

Q. Take the next commodity, lumber, shingles, etc. per carload of 30,000 pounds for a distance of 25 miles, the rate is also higher in Missouri than in either of the other three States?

A. Yes, sir.

Q. And for a distance of 50 miles it is higher in Missouri than in Arkansas and higher than in Iowa?

A. Yes, sir.

Q. And somewhat lower than in Illinois for that distance?

A. Yes, sir.

Q. For a distance of 75 miles on the same commodity the rate is higher in Missouri than in Arkansas or Iowa and lower than in Illinois?

A. Yes, sir.

Q. For the distance of 100 miles the rate is higher in Missouri than in Arkansas, higher than in Iowa and not quite so high as in Illinois?

3231 A. Yes, sir. The difference in Illinois is $3.90 a car.

Q. For a distance of 150 miles the rate is higher in Missouri than in Arkansas, and somewhat lower than in Iowa and Illinois?

A. My figures do not show that. My figures show that they are higher than both Illinois and Iowa, lower than Arkansas and Iowa, there being only 30 cents difference in Arkansas and Missouri rate under the law of 1905.

Q. What do your figures show as to the rate in Missouri?

A. The rate in Missouri would be $22.50 a car. There might be some mistake in transcribing those figures.

Q. What is the rate shown in Arkansas?

A. $21.00 in Arkansas, $22.20 in Iowa, and $27.00 in Illinois.

Q. That shows the Missouri higher than the Arkansas rate, but lower than the rate in either of the other two States?

A. No, sir. The Iowa rate is 30 cents a car less than the Missouri rate.

The MASTER:

Q. Are the tables of rates in those three states, Iowa, Illinois and Arkansas, founded upon the establishment of a first basic rate for say 25 miles, as this new law; or are they what you term "graduated rates"?

A. They are graduated rates.

Q. They proceed upon the other theory?

A. They are not made from the same formula, so to speak, as the Missouri rate. The figures are simply put down. The Arkansas rate is patterned after the Georgia rate, both as to measure and the form of the tariff. The list of commodities is similar to the Georgia rate.

3232 The reason for that is that the Secretary of the Arkansas Railroad Commission at the time the tariff was made, was a friend of one of the members of the Georgia Commission, and they were going to adopt the Georgia tariff bodily in Arkansas, which would have meant the ruination of Arkansas, on account of the situation of the business generally. The tariff is founded substantially on the prices laid down in that Georgia tariff, and modified under the protest of the railroads against some features of the form of the tariff, and in almost every case against the measure of the rates proposed.

Q. They did not proceed upon the theory that this statute of 1905 adopts, of establishing an initial rate for the first 25 miles, usually 25 cents, and adding according to the mileage of the other rates?

A. No, sir, not at all. Their graduation is irregular for the division of the distance.

Q. Would this comparison you are now making obtain in other distances than those selected there, in probably the same ratio?

A. Well, you might say, with some variations. They do not vary very much. If your comparison for 150 miles in all four of these rates is shown here, the relation of the intermediate mileages would closely approximate that relationship.

Mr. KENNISH: I believe under the Missouri rate, the 25 mile rate would control up to 50 miles; the 50 mile rate up to 75 miles,

3233 and so on, by 25 mile distances; while under the rates in other States, I believe, Mr. Stith, they are graduated on 5 mile increase instead of 25: Is that true?

A. I think that is substantially true. That is true of most distance tariffs at the present time. If you publish your rates, or if we apply this 1905 basis to our tariff, we would probably publish it in blocks of 5 miles, so there would not be any misunderstanding on

the part of the agent as to the rate. You stated that the rate for the first 25 miles would apply for the next 25 up to 50?

Q. Yes.

A. It is 25 miles and under, is the first group.

Q. The 50 mile rate would control from 25 to 50?

A. From 26 to 50; and the next group would be from 51 to 75, and so on.

Q. That would make a difference?

A. It might make a difference.

Q. In other words, under the Missouri rates, a shipment for ten miles would entitle the company to charge the whole 25 mile rate, while in these other States they have a rate fixed for less than 25 miles and rates fixed for intermediate distances between the 25 and the 50 mile rate?

A. That would be the application of the 1905 rate, yes, sir.

Q. So it would be more favorable to the railroad in the other States, by having the graduation on shorter distances than are made in the Missouri rates?

3234 A. That might be the case. It would depend altogether on how you started your rate.

Q. I believe I got that statement wrong, Mr. Stith, in my question: Where the railroads are entitled to charge for a 10 mile haul, say, as they are under these other States, and in Missouri they are entitled to charge the full 25 mile rate for the 10 mile haul; that would give the railroads an advantage under the Missouri rates as compared with the rates in the other States. And the same would be true from the 25 mile distance up to the 50 mile dustance?

A. That might be so and it might not be so. It would depend entirely upon the figures you used.

Q. Say the rate is the same for the 25 mile shipment in each State, but that in these other three States there is a lower rate provided for a ten mile shipment. A ten mile shipment in Missouri would authorize the railroad companies to charge the full 25 mile rate, while with the other States they could charge only the letter rate?

A. That brings up the same question that was started a little while ago, as to whether there were any commodities upon which the rates were lower than the statute permitted. When you come to transport an article like wheat for 10 miles it is very doubtful if you could get the full statute rate, because the farmer has the grain already loaded on his wagon and if he has a good road he is going to haul it that five, ten or twelve miles, or as high as fifteen miles. At least he will haul it as far as he can go in one day and return.

3235 Q. That brings into consideration a different question?

A. But setting aside all those conditions the theory would be that a tariff which made its rates in blocks of 25 miles, provided the scale was high enough, would be more advantageous to the railroad company than one which made the tariff in blocks of five miles. It depends entirely upon the figures you use, the measure of the rate entirely.

Q. And if the rate in Missouri was the same for 25 mile shipments as for a 50 shipment, as in these other States, and these other States reduced the rate on each five miles of distance of each shipment, the railroads would receive much more under the Missouri rates than they would under the rates in the other States, up to 50 miles: Wouldn't that be true?

A. That would be true if they divided the difference in the rates proportionately with the mileage. In other words, if there was a dollar a car difference, or say there are five divisions of the rates, 26 miles to 30; 31 to 35, and so on in blocks of five miles up to the 50 mile limit; if they divided that difference equally, the difference in the rate whatever it might be, one or two dollars a car, for that gross mileage, between those two distances, equally for each division, the 25 mile block scale would of course be more advantageous. It is obvious that is so. But there are many cases where the rates are irregular, and many cases where it is blanketed for 50 miles.

Q. Where the graduation is five miles, it is advanced for each five miles as a rule, just as in Missouri they are reduced on the
3236 25 mile division?

A. Those divisions in the five mile sections may not be uniform, one-half cent in the first five miles and only a quarter cent in the second and so on.

Q. If there is any reduction in the five mile division, it would work against the railroad companies in those States that divide on that basis, as compared with the Missouri where the division is only 25 mile distance?

A. Yes, sir, that would work out in about that way. But in these cases you have cited only the ones where the Missouri rate is less; you have not considered the others.

Q. I was calling attention to those rates, yes, that were less in Missouri?

A. Now, you take the Illinois rate——

Q. Continuing now a little and taking the distance of 200 miles, the rate in Missouri is higher than the rate in Arkansas, higher than the rate in Iowa, and somewhat lower than the rate in Illinois, I believe?

A. That is correct. There is 30 cents a car difference between Iowa and Missouri for that distance.

Q. On agricultural implements, a carload of 20,000 pounds for a distance of 25 miles, the rate in Missouri is higher than in Iowa or in Illinois and lower than the rate in Arkansas?

A. Yes, sir.

Q. And for the distance of 50 miles, the rate is higher in Missouri than in Iowa, somewhat lower than in Illinois, and lower than in Arkansas?

3237 A. Yes, sir, that is true.

Q. For a distance of 75 miles the rate is higher in Missouri than in Iowa and lower than in Illinois and lower than in Arkansas?

A. Yes, sir.

Q. I notice you have sheep and goats classed as coming under this Act of 1905?

A. Yes, sir.

Q. Is it your understanding that sheep are included in that Act?

A. Yes, sir. The Classification provides in Section 1193, which was referred to yesterday, says that Class H shall embrace all kinds of livestock. I do not recall that any exception was made to either sheep or hogs from that general classification.

Q. Isn't it a fact that there is a separate statute controlling the shipment of sheep, providing that the carload shall consist of 10,000 pounds single deck, and 20,000 pounds double deck, entirely separate from this section 1193 and 1194?

A. I did not know that. That was not impressed upon me, if that is the case.

Q. We won't take time on that now. But in the comparison made by you on sheep and goats, a 36 foot car——

A. That is what we call a standard car.

Q. A 36 foot car, 12,000 pounds, single deck, the rate in Missouri is higher as fixed by the Act of 1905 than the rate in force in Iowa and lower in Illinois and Arkansas?

3238 A. For what distance?

Q. Fifty miles.

A. I do not figure it that way.

Q. On a distance of 200 miles?

A. It shows that the rate as fixed by the statute is more in Missouri than in Illinois. But it is less than the rate in Arkansas and Iowa for 200 miles. That very rate for 200 miles in Missouri is $23.10 on 12,000 pounds at the class H rate. In Arkansas the rate would be $25.00; in Iowa $26.40; and in Illinois $21.96, as I read the figures here (indicating statement). So the Missouri rate would be less only than the Illinois rate.

Q. Look at the rate on hogs, for a 36 foot car, 17,000 pound weight, single deck; the rate in Missouri for a distance of 300 miles is higher also than the rate in Illinois for that distance?

A. Yes, sir. Also higher than the rate in Arkansas, 15 cents a car higher.

Q. And slightly lower than the rate in Iowa for that distance?

A. Yes, sir.

Q. The next article is salt, on a carload of 31,000 pounds?

A. That is 70 barrels of 300 pounds—no, that wouldn't be that, either.

Q. The rate in Missouri for a shipment of 25 miles is the same as in Arkansas, higher than the rate in Iowa and higher than the rate in Illinois, I believe, as shown by these figures here?

3239 A. Yes, sir.

Q. And for a distance of 50 miles the Missouri rate is higher than the Iowa rate, lower than the Illinois rate, and higher than the Arkansas rate?

A. It is $18.60 as against $17.65 in Missouri.

Q. Lower in Arkansas than in Missouri?

A. Yes, sir.

Q. But considerably higher than the rate in Iowa for that distance?

A. Yes, sir. $2.07 a car.

Q. For the distance of 75 miles the Missouri rate is higher than the Iowa rate and somewhat lower than the Illinois rate and the Arkansas rate?

A. Yes, sir.

Q. For a distance of 100 miles the Missouri rate is higher than the Iowa rate and lower than the rate in the other two States?

A. Yes, sir.

Q. And for 150 miles the Missouri rate is higher than the Iowa rate and lower than the rate in the other two States?

A. Yes, sir.

Q. For a distance of 200 miles the Missouri rate is higher than the Iowa rate and lower than the rate in the other two?

A. Yes, sir.

Q. No, the Missouri rate is higher than the Arkansas rate and higher than the Iowa rate?

A. Yes, sir.

Q. And lower than the Illinois rate?

3240 A. Yes sir, that is what these figures show.

The MASTER: Mr. Kennish, all that is shown by the table, Exhibit 4, isn't it?

Mr. KENNISH: It could be shown by making the comparison, but it is not indicated on the Exhibit itself.

The WITNESS: The figures will compare themselves.

Mr. KENNISH: There are only a few more, but I will not pursue it any further.

Q. Could you give an opinion as to the revenue per ton mile on the short haul as compared with the revenue received on the longer hauls per ton per mile?

A. Yes sir, ordinarily the results from a long haul are less per ton mile than the results from the traffic handled a shorter distance.

Q. That question is always taken into consideration in fixing railroad rates, I believe, isn't it?

A. It is one of the factors.

Q. The distance?

A. The distance is one of the factors.

Q. And when you are speaking of rates as being relatively reasonable under the schedule of 1904, you had in mind the different distances and the rates fixed for the different distances covered by that schedule?

A. I had in mind the schedule as a whole, which I take it would include your question, yes sir.

Q. You had in mind the recognition that the railroad and warehouse commissioners give to the rates as affected by distance,

3241 didn't you?

A. Oh, yes, as one of the conditions.

Q. For instance, you spoke yesterday of the rate on certain commodities, I believe wheat was mentioned, as being five cents per hun-

dred pounds for the first 25 miles: What would be the rate per ton mile on that shipment say for a 40,000 pound car, on a 25 mile shipment; that is, the rate provided in the Act of 1905?

Q. That short distance there would be approximately four cents a ton a mile.

Q. You spoke of a shipment of wheat from Joplin to St. Louis on your rate at the present time, I believe, for that distance I believe is 14¾ cents, in the Exhibit you offered in evidence yesterday?

A. That is correct, 14¾ cents.

Q. What is the distance?

A. 382 miles.

Q. Will you give us the rate per ton mile on that shipment?

A. That is 7.7 miles.

Q. What proportion would that be of the tonnage in the other case, about?

A. What proportion? The other is over five times as great.

Q. Take the other point you mention of the shipment from St. Louis to Washington a distance of fifty-five miles, the rate I believe, under the new law, is six cents per hundred pounds for that
3242 distance: that would be the amount received per ton a mile on the shipment of wheat from St. Louis to Washington or Washington to St. Louis?

A. A little over two cents a ton mile. It would be $1.50 for fifty-five miles.

Q. What would the rate per ton per mile be on that shipment?

A. A little over two cents a ton mile.

Q. So as illustrated by this example the shorter the distance the greater the revenue received per ton mile by the company, and that is universally the case in all freight received, not only those covered by this company, but all rates covered by the Commissioners' schedule, and this Act taken together, isn't it, Mr. Stith?

A. Yes sir, that is, generally speaking, what we find to be the case with reference to all those rates.

Q. What does the company receive for a shipment of live stock from Kansas City, Mo., to East St. Louis, Illinois, after deducting bridge tolls and other expenses at Kansas City: stock that is reloaded at Kansas City and shipped on to East St. Louis.

A. I might have those figures here, but I am not sure. What kind of stock was that?

Q. Any live stock.

A. Horses?

Q. Say cattle.

A. The present rate is 14¾ cents per hundred from Kansas City to St. Louis. That would apply also to East St. Louis, $32.45.
3243 Q. The State rate will be 14¾ cents?

A. Yes sir. From which we would deduct $4.00 a car, I think it is for bridge tolls across the river, four to four dollars and a half, making about $28.00.

A. Then you would receive that $4.00 to $4.50 per car less on the Interstate shipments than you would receive for the shipment under the Act of 1905.

A. No sir, not necessarily so.

Q. What is the rate prescribed by the Act of 1905 on the shipment you referred to?

A. $23.10 from Kansas City to St. Louis on a 36 foot car of cattle.

Q. You have the Hannibal rate, haven't you?

A. That would have to be our St. Louis rate.

Q. The State rate to St. Louis would be $29.90, wouldn't it?

A. It would be $29.70, yes sir.

Q. Under the Act of 1905?

A. Yes.

Q. What would be your rate from Kansas City to East St. Louis on a similar shipment?

A. If we were compelled to apply the 1905 basis of rate, we would probably add to the transfer rate to make the St. Louis rate the same as the East St. Louis rate.

Q. What is your present rate.

A. The present rate of $32.45 for a 36 foot car on cattle.

Q. To East St. Louis?

A. Yes sir.

3244 Q. You deduct what?

A. The cost of transfer across the river.

Q. $4.00 to $4.50?

A. Yes sir, I think that is it.

Q. How much would that leave the company?

A. Substantially $28.00.

Q. Less than the rate you charge under the existing laws?

A. You cannot charge the full Missouri Pacific mileage on live-stock from Kansas City to St. Louis if you put this 1905 rate in effect, because your competitive commercial conditions prevent it.

Q. What conditions do you refer to?

A. I refer to the fact that the short line mileage makes a rate of $23.10, and even if they added the cost of river transfer at that point, and to that added the differential to make the Chicago rate, this market would be thrown entirely out of the business.

Q. You are directing my remarks to the rates to Hannibal?

A. I am directing it as I address it to the practical side of this proposition as we have found it always. The Missouri Pacific cannot move a hoof of stock from Kansas City to St. Louis at higher rates than some one else has between the rivers. Neither can they move it to this market if out of line with the Chicago market. The Chicago market would be based upon the rate from Kansas City to St. Joe or Hannibal, plus whatever river charge was made there

3245 for transfer across the river, plus the differential Chicago takes for that rate. That would fix the price at which the stock could be sold in Chicago.

If people wanted to engage in the live-stock business in St. Louis they would have to make it relatively profitable for the shipper to ship here, otherwise the railroad would not get that stock.

Q. You are talking about the markets affecting the rates?

A. Undoubtedly they do affect the rate.

Q. Your short line rate between Hannibal and St. Joe would not

necessarily apply to the rate from Kansas City to the East St. Louis market leaving out of consideration your market prices.

A. If you created a position of that sort all stock offered on Kansas City market would be bought by people who could ship via Hannibal to Chicago and they would not have any use of the East St. Louis market?

Q. Why do you make that assertion?

A. That has been our experience.

Q. You are assuming that the market in Chicago is higher than the market in St. Louis.

A. It is, because the rates are higher. It might be so adjusted that if you continued the freight rate——

Q. Suppose the rate was the same in East St. Louis as Chicago, then your short line mileage from Hannibal to St. Joe would have no bearing on the rates we are speaking about between Kansas City and St. Louis?

3246 A. The value of your stock is more at Chicago than at St. Louis.

Q. Assuming that.

A. We cannot assume that, because it never has been so. That is not a state of facts that exist. I say it never has been so—it has never been within my knowledge. The value of live-stock or the value of grain,—the value of live-stock at Chicago is greater than at St. Louis, for the simple reason that when the product of that live-stock, or the live-stock itself, is shipped to the final market, the points of consumption, and the principal movement is used, the rates to Chicago are less than from St. Louis. The rate from New York to St. Louis is 116 per cent of the rate from Chicago. Unless that market difference, or that rate difference in the east-bound rate is adjusted either through market conditions, or the rate up to Chicago or up to St. Louis, it throws either one of these gateways out of line for the movement of business.

Q. I will ask you if it is a fact that there is quite a movement of stock from Kansas City to the East St. Louis market?

A. At times, yes.

Q. If so at what rate are those stock carried?

A. They move at rates differentially less than the standard rates to Chicago. The prices of these two markets are adjusted to that differential in the rates. There may be some tributaries. There may be some fluctuations from that, but the general basis is represented by that differential, so that the two markets are practically on a par.

3247 Q. How are the rates as fixed by your road between Kansas City and East St. Louis, as compared with the rate on shipments of live-stock between Kansas City and St. Louis, Missouri, under the act of 1905?

A. The cattle rates from Kansas City to East St. Louis at present is $32.45. The 1905 basis applied to the Missouri Pacific mileage 283 miles, would make $29.70 from Kansas City to St. Louis. Now the short line rate would be $23.10 from Kansas City to St. Louis, and from Kansas City to Hannibal.

Q. You said the short line.

A. We would have to ship on the short line or go out of business. The business does not actually move over the short line, but if our rate is higher than our competitors, we go out of business.

Q. But your competitor on the short line, if they shipped to East St. Louis, would have a longer line than you have from Kansas City to St. Louis.

A. The market differences prevent the operation of that sort of a scheme.

Q. Assuming that Chicago is always a higher market than St. Louis, as you assume it——

A. Yes sir.

Q. And you are making that assumption?

A. That is generally the case.

Q. Outside of that, the rate under the act of 1905 would net the company more on its mileage on a shipment between Kansas City, Missouri, and St. Louis, Missouri, than is received from the interstate shipment from Kansas City, Missouri, to East St.

3248 Louis, Illinois.

A. No sir, there would be no movement under the 1905 rate if applied.

Q. The rate applied by the statute, considering that?

A. On the paper rate you provide for the mileage of the Missouri Pacific, you could figure that the rate ought to be $29.70, but I tell you if you applied that rate you forego the business. You will not handle the business.

Mr. LADD:

Q. Suppose all the Missouri roads applied that rate, you would get the business.

A. They could not apply it.

Q. Suppose they did obey the law?

A. If they obeyed the law there would be a $23.10 rate to one Mississippi River point and $29.70 to another.

Q. Not in Missouri?

A. There is not much market in Missouri for stock. Say these rates that are provided in the 1905 Act would be the measure of what you could charge, not only on the State but interstate business. Your rates to the National Stock Yards would have to be adjusted to the rates made by the short line across the state.

Q. If the railroad companies were to enter into a combination to obey the law instead of entering into a combination to disobey it, these questions would not be raised, would they?

Mr. HAGERMAN: That is objected to as an improper inference and wholly unjustified by anything on earth, either as a matter of fact or a matter of record, that these railroads have entered into a combination to disobey the law.

3249 The objection is sustained.

NOTE.—Mr. Kennish having been called to a conference with Judge Finkelberg on a matter of business, the cross-examination was continued by Mr. Ladd.

Cross-examination continued as follows:

By Mr. Ladd:

I cannot go into the question of rates with Mr. Stith, but will leave that to Mr. Kennish.

Q. I will ask you if it is not a fact that in Iowa, on a line running between the Mississippi and Missouri rivers, different rates are not maintained on interstate traffic by the different railroads.

A. I do not know that I could answer that without an examination of the tariff.

Q. You do not know whether that is a fact or not?

A. It could be a fact, but I would not undertake to answer it definitely and finally that it is a fact, without an examination of the tariff. I have heard it said that that was the case.

Q. You have heard it said?

A. I have heard it said that was the case.

Q. You have heard it said?

A. Yes sir.

Q. Don't they all—it may not be a fact but I am informed it is, of course I have no knowledge of the subject—that the different railroads running east and west across the state of Iowa made different rates for interstate traffic from the Mississippi river to the Missouri river and vice versa: isn't it also true that they
3250 make practically the same rate across from the Mississippi river?

A. It would necessarily have to be true if they wanted to stay in the business. The east and west lines across the State of Iowa, I take from my recollection of the map, are so removed that they could apply the maximum scale, if they had not a common point of origin or destination, without much interference with their interstate business.

Q. I will say from the Mississippi river to Council Bluffs, where there is a common point of destination.

A. That might be true, also.

Q. Have you the figures showing the tonnage of your road to and from stations in Missouri, state and interstate separately.

A. Certainly I have not. Not unless these are shown in exhibit 5.

Q. Are they in the offices of the company?

A. I don't know. I do not keep those accounts.

Q. In whose department would they be?

A. They would be in the accounting department, where they keep the records of the company.

Q. Do you know whether you or any of your officers have the figures showing the tonnage to and from your stations in the state of Missouri, not separated between state and interstate business?

A. I don't know. I assume they have. If that is a record required by either State or interstate commissions we would probably have that information.

Q. Is that in the traffic department?

3251 A. That is not within the jurisdiction of the traffic department, no sir.

Q. You haven't got it?
A. No sir.
Q. Nor is it in your department?
A. No sir.
Q. Where would that be?
A. Records of that kind are kept in the accounting department.
Q. The Auditor's?
A. Yes sir, the Auditor's office.
Q. Wouldn't they proceed from the traffic department?
A. No sir, not necessarily.
Q. Do they proceed from the traffic department?
A. No sir, they do not proceed from the traffic department. The traffic department has nothing to do with it. The accounting department gets its information from the way-bills which are made to cover the movement of freight. That never comes into the general traffic department offices.
Q. That is not the traffic department. Does not the traffic department know, as a matter of information, what the tonnage in and out of the various stations is?
A. If it is accessible to the traffic department.
Q. If you wanted to find out yourself, where would you go for it?
A. I would probably go to the Auditor for it.
Q. Would you expect to find it?
A. I should expect him to find it for me. I would not
3252 know where to find it in his office.
Q. The Auditor's office is the proper place to keep that?
A. Yes sir.
Q. And your understanding is that it is there?
A. They have all the statistical information that is compiled by the corporation. They keep the books of the company?
Q. Ought it to be there?
A. Yes sir, it ought to be there. That is the proper place for that information.
Q. That particular information ought to be there?
A. If it is possible to compile it. I don't know whether they could compile it on a separation of the tonnage, at least I don't know that they keep it in that form.
Q. The tonnage of the different stations?
A. I have seen the reports which showed the tonnage, for instance, forwarded and received at the different stations, but it does not show where that is going to or coming from. I don't know whether they keep any other statements than that of tonnage.
Q. That statement is in the Auditor's office?
A. Yes sir, there would be such a statement as that in the Auditor's office.
Q. You corrected a statement which you made yesterday, in which you said it could be ascertained from your last year's report,—I suppose you mean your report to the stockholders for the year
3253 ending June 1906,—what the cost per ton per mile of freight was: you said you did not mean to say "cost" but "revenue per ton mile."

A. Yes sir, that is what I meant. That is the average revenue per ton mile.

Q. Mr. Stith, does this report show the average revenue on the system per ton mile?

A. I am inclined to think it does.

Mr. HAGERMAN: I submit if the witness is asked anything like that the papers should be handed to him.

Mr. LADD: Examine the report and see.

(Answer of witness after examining the report.)

A. This report shows on page 48 the statement No. 23, earnings per mile of road, earnings per freight train mile, and the earnings per ton.

Q. Does it give the earnings per ton mile?

A. This report does not, apparently.

Q. It does give the number of ton mile of freight on that page, doesn't it?

A. Yes sir.

Q. Both revenue and company freight?

A. Yes sir.

Q. And it does give in another part of the report the gross earnings from the freight business, doesn't it?

A. Yes sir.

Q. And you divide the number of tons one mile into the gross earnings and you get the revenue per ton mile, don't you?

A. I presume so.

Q. Isn't that a fact, is there any presumption about it?

A. I think that is the only way to get at it?

Q. You do get the average revenue per ton mile that way?

3254 A. I might say that in the previous annual report it carried that information on a separate page, but I noticed it has been left out of this.

Q. The information worked out as to revenue per ton mile?

A. Yes sir, revenue per ton mile. I think that has been shown in previous reports.

Mr. HAGERMAN: You mean the carrying out of the calculations?

A. Yes sir.

Mr. LADD:

Q. It could be worked out for 1906 very easily?

A. Yes sir, it could be caried out very easily.

Q. Now, you say yesterday, subject to the correction you made today, "We can tell from our last year's report what our average per ton mile revenue is"—that makes it right, doesn't it?

A. Yes sir.

Q. "And we can tell what we must be guided by in trying to adjust our rates to see that we get a fair earning from what we do": That is what you said yesterday as corrected today; now isn't it quite as necessary that you should, in order to be able to adjust your rates, so as to get fair earnings, know what the cost per ton mile is, as it is that you know what the revenue per ton mile is?

A. I don't think so.

Q. You don't think so?

A. No sir.

3255 Q. Do you think the cost per ton mile has no relation to that subject?

A. Oh, it finally has. There is no question about that.

Q. I will ask you, Mr. Stith, if it is not a fact that the cost and the revenue per ton mile is not the recognized unit by all railroad officials, of earnings and expenses?

A. Why, will you repeat that, please?

Q. I will ask you if the cost per ton mile and the revenue per ton mile do not constitute the recognized unit of expense and earnings, of carrying on the freight business as recognized by all railroad authorities and officials.

A. I do not think so, today. And that is one reason why those earnings per ton mile are left out of this report. As I understand it, it was not considered a very valuable statistic.

Q. It is not worth anything?

A. I did not say that. I said, not a very valuable one.

Q. What is your opinion about it?

A. I think it is valuable insofar as it shows a state of affairs on your road. But when you come to figure, for instance, last year we may have made an earnings per ton mile or cost per ton mile; now the cost per ton mile is a variable proposition. You cannot tell what it is going to be. You may make your rate on one basis of cost per ton mile, and find that by reason of conditions you could not possibly foresee, that has been entirely changed. That is frequently the case, an everyday occurrence.

Q. I am not talking about the ton mile cost of one particular ton of freight.

3256 A. Well, even your average. You may have a washout, or have detours; you may have local contract conditions that increase your ton mile cost. It is such an uncertain quantity that you cannot figure on it, in my judgment, with any degree of safety.

Q. You do not think it is a matter, then, of very much importance, to ascertain what the average cost per ton mile and the average earnings per ton mile on the system are, for doing its freight business?

A. No sir, I do not think that they are factors that are absolutely necessary.

Q. I will ask you if it is not the only correct method of ascertaining definitely and accurately whether a road is losing, or earning money, and the relations between earnings and expenses?

A. I do not think so. You might figure your cost per ton mile, taking a certain season of the year when there is a peculiar situation regarding your transportation, that does not give you the full rates for your cars. You might not get the benefit of the cubic capacity of the cars.

Q. I am afraid you do not understand me. I am talking about this year by year?

A. This has a bearing on the whole thing.

The MASTER:

Q. Is there any other standard which would more accurately approach a correct standard?

A. I should think the train mile basis would be more accurate, and even that is so variable that you cannot always count upon that. If you are going to figure your freight rates again from cost per ton mile and based upon the interrogatories that have
3257 been propounded to me, at a certain percentage, to make your rate, you would have chaos.

The MASTER:

Q. You think the revenue train mileage would be a nearer approach to a correct standard than the ton mile unit?

A. I think you could keep closer in touch with the operations on your several divisions through that system than you can by a ton mile system. Of course you can get a ton mile system practically through those same figures, because you have got to know as to the tonnage that each engine would move, I take it, and the length of the haul, and the earnings of that train as shown by the way bills. Then you can figure out the cost of the transportation of that train against it.

Mr. LADD:

Q. I think you have said in answer to the Master that you thought the earnings and cost per freight train mileage would be better than the cost and earnings per ton mile: Is that right?

A. I thought the per train mile statistics would serve a better purpose than the per ton mile.

Q. I see on this report towards the bottom you have "Earnings per freight train mile." Have you the cost per freight train mile there?

A. I do not see it there.

Q. Wouldn't it be necessary to have the cost?

A. It is not for the purpose of this report, I take it. At least, they have not worked it out to that extent.

Q. Do you know whether in any of your offices, since this litigation has begun, there has been any effort made to ascertain
3258 the cost per ton mile on your system of carrying freight, for any year that has been discussed here?

A. No sir, I do not.

Q. You do not know whether there has been?

A. I presume there has been an effort made to prepare a great many statistics bearing upon this case, but I do not know just what form that has taken. I have not been consulted about it and I cannot answer that question.

Q. You have not been consulted?

A. No sir.

Q. And you do not know whether any effort has been made to ascertain the cost per ton mile of conducting your business?

A. No sir.

Q. You have not given any instructions regarding the preparation of them?

A. No sir, except comparison of rates that have been made from time to time, and preparing copies of statements that have been made for you gentlemen here.

Redirect examination.

By Mr. HAGERMAN:

Q. Your idea about it, for the reasons you gave, that however valuable a total tonnage and a total mileage, as a matter of statistics might be, that in figuring the cost of doing local business, you could not by just taking the average of the cost per ton per mile get accurately the cost, and the actual cost of carrying the local freight?

A. That is my opinion.

3259 Q. In order to get accurately that cost you would have to have the condition and character of the traffic that was carried?

A. Yes sir.

Q. And the amount of waste space would cut a very important figure?

A. Yes sir.

Q. As a matter of fact, statistics could be prepared if the amount of each shipment was carried in the same kind of way, so as to make an estimate of that character of practical value?

A. Yes sir.

Q. But in practical railroad experience they do not do it that way?

A. That is my understanding.

Q. When you say cost per ton mile, what does that mean: There is a method of preparing statistics for the purpose of comparison?

A. For the purpose of comparison.

Q. What is that?

A. That is an operating statistic.

Q. How would you arrive at that? That is a well known thing in railroad circles, isn't it?

A. Yes sir. As a general rule most lines have a regular basis upon which the charges going into the cost of operation are assessed. Or, rather, as to the various items that would be charged against that operation, enumerating them as for instance, wages, fuel, and so on.

3260 Q. I do not have it in mind so much that detail you are calling attention to now as I have the idea you have shown upon this annual report to which you referred; the figures shown on the basis of train per mile?

A. Yes sir.

Q. Just how is that ascertained?

A. That is ascertained from the records of the auditor's office.

Q. How would you do the example to find it out? What would you have to have?

A. You would have to have the total train mileage and the total earnings and the movement of the business.

Q. Then it is a simple calculation?

A. Yes sir, simply an arithmetical calculation, as I understand it.

Q. Another theoretical thing for statistics is to obtain the cost per ton, regardless of the mileage, isn't it, and that is ascertained in the same general way?

A. Yes sir.

Q. Given the total earnings and the total tonnage, you can arrive at what it is per ton?

A. Yes sir, per ton.

Q. And nothing you have said implies that all these things are not important to you in dealing with averages, in dealing with the general situation in the operation of a railroad?

A. I did not intend to convey any such idea.

Q. As I understand, your understanding of the increase
3261 of cost of conducting intrastate over interstate business, while you knew in a general way it did cost more, from what you had learned from the operators, you thought it was about two and a half times, I believe you said you had not made any detailed study of the question?

A. I had not.

Q. So as to figure out the elements. What is the increase as to the State shipments upon the question of terminals, as against the interstate shipments, as an ordinary rule?

A. In a State shipment you have the two terminals within the State, on the interstate shipment either going to or coming out of a State, there would be only one terminal to be charged against the State expense.

Q. If it were to go clear through without stopping?

A. There might possibly not be any. There might be one, provided it started on its voyage from a point in Missouri.

Q. Is or is not the terminal charge an important factor?

A. Very important.

Q. And that for the reasons you explained in going through this law, that is recognized as a very important factor, upon the theory upon which the law is based?

A. That would be particularly true so far as this 1905 law is concerned.

Q. That is what I mean?

A. Yes sir.

Q. Why is that so?

A. That is so because the basic figure on there is presumably intended to cover the cost of terminals and such road haul as
3262 is performed in the first 25 miles; and the ratio of increase is so slight that it is evident on its face that the people who composed this law did not expect to have that include any terminal expense, because there is certainly no provision made there for any such item.

Q. As between interstate and State business, how, in a general way, does the volume of business as carried upon the way trains compare. That is, if I make myself plain, I presume of course there

may be some cases where interstate freight is carried upon what we call "way" trains; but how is it in the majority of instances?

A. Well, I should say, without having made a specific examination into the figures, that the great majority of interstate business is carried on through trains.

Q. When you deal with these way trains and their shipments in the State, how is it as to their being much lost space or lost tonnage upon the cars?

A. The cars are undoubtedly frequently light loaded. The "way" shipments have to be handled by the train crews.

Q. Somebody has said at one time, but I guess it was not in this case, that in these way shipments, and especially with the State business, the runs were by day as against night?

A. That is true, because the way freight has to be delivered, at the stations. They cannot do that in the night time.

Q. Does that entail extra expense?

A. That entails very slow movement.

Q. Does slow movement against fast movement, entail extra expense?

3263 A. I should think so.

Q. All these elements enter into the feature of extra cost of doing local as compared with interstate business?

A. I think so, entirely so.

Recross examination.

By Mr. S. B. LADD:

Q. You say on a State shipment you have two terminals in the State and only one on the interstate shipment: Isn't that subject to some qualification?

A. Only one in the State.

Q. You stated in substance that on the intrastate shipment you have two terminals in the State and only one terminal in the case of interstate shipments?

A. That question, as I understood it, was asked as to the items of expense that were incurred in the handling of State versus interstate business that would be chargeable to the handling of the State business within the State. On the local business there are two terminal charges that have to be taken care of out of earnings wholly within the one State.

Now, on the interstate business, of course both terminals would have to be charged against the total line earnings, but only one of those terminals ought in any fairness be charged against the earnings for that business within that one State.

Q. Suppose you get a shipment of goods, the origin of
3264 which is Cincinnati and its destination is Warrensburg on the line of your road: It comes over the Baltimore and Ohio Southwestern to St. Louis, and is turned over to your road: How do you get it?

A. How do we get it?

Q. Yes, what is done at St. Louis or East St. Louis? How does

it get from the hands of the Baltimore & Ohio Southwestern to your hands to go to Warrensburg?

A. That depends. If it is a small shipment it might be turned over by the Baltimore & Ohio Southwestern to a transfer company and they would haul it over to our station.

Q. Where would they turn it over?

A. At St. Louis.

Q. Where?

A. At the 7th and Poplar Street station.

Q. In the city of St. Louis?

A. Yes sir.

Q. A less than carload shipment?

A. That might be less than carload.

Q. What would they do in the case of a less than carload shipment?

A. That is what I am telling you.

Q. Suppose it is five carloads of clothing; that is less than carload?

A. Yes sir.

Q. Shipped from Cincinnati to Warrensburg?

A. Yes sir.

Q. It comes in over the Baltimore and Ohio Southwestern?

A. Yes sir.

Q. How far does that road take it?

3265 A. To East St. Louis.

Q. Then what is done to it?

A. It is turned over to some transfer company or to the St. Louis Terminal Association and delivered by them to the Missouri Pacific Railroad. That transfer company would haul that business over the river and tender it to us at our 7th and Poplar Street station, in all probability. Then it would be billed out and on that shipment there would be the terminal at St. Louis and the terminal at Warrensburg.

Q. Who would pay the expense of getting that stuff across the river?

A. That would depend. If the rate applied from East St. Louis, then the Missouri Pacific would have to bear that expense. If not, it is charged against the shipment.

Q. And it would come out of their earnings?

A. If they bore it it would have to come out of their earnings.

Q. How many terminals would there be in this State?

A. Two, in that case.

Q. Take a carload shipment?

A. On carloads the same proposition would be repeated, but on the through interstate, that is, business that passes through the State——

Q. I am not talking about through interstate, but a shipment from Cincinnati to Warrensburg?

A. I have answered that question.

Q. I am asking about a carload?

A. I said it would be handled in substantially the same way.

3266 Q. How many terminals would there be?

A. Two. One at St. Louis and one at Warrensburg.

Q. So on the interstate shipments, which have either their origin or destination in the State of Missouri, there are two terminals in Missouri?

Mr. HAGERMAN: That comes to the Missouri Pacific from outside the State?

A. That might and might not be. If it is an interstate shipment delivered to the Missouri Pacific at a junction point of interchange within the State of Missouri, by this interstate carrier, and that shipment is subsequently delivered at a station in Missouri on the Missouri Pacific Railroad, then there would be two terminal expenses in Missouri on the interstate shipment.

Q. Suppose it is delivered to you at St. Louis, are there two terminals in Missouri?

A. Yes, sir, if going to a Missouri point. But suppose it was a shipment coming from beyond and delivered by us to Kansas. Then there would not be two terminal expenses.

Q. I am not asking you that. If you will just confine your answers to my questions——

Mr. HAGERMAN: That is what he is trying to do.

Mr. LADD: He is not. I have not asked him such a question.

Q. Take an interstate shipment which has either origin or destination in the State of Missouri, there are two terminals?

Mr. HAGERMAN: That is objected to. He is asking a
3267 question that cannot be answered in any other way than Mr. Stith has answered it. If it comes from another road and comes to the Missouri Pacific, there are two terminals. But if it either originates on the Missouri Pacific or is delivered by the Missouri Pacific outside the State, then there are not two terminals.

The MASTER: The question assumes more than the admissions of the witness would justify.

Mr. LADD:

Q. I will put the question in another form: In the case of an interstate shipment which has either origin or destination in Missouri, and which if it has origin in Missouri is delivered by you to another road, or destination in Missouri is received by you from another road, there are two terminals in Missouri?

Mr. HAGERMAN: You mean received in the State of Missouri.

Mr. LADD: Yes.

A. That would be the case, if I am permitted—I do not want to make a speech, but I would like to give you three illustrations as they occur to me and clear this situation up, Mr. Ladd. I do not want to interrupt you at all.

Mr. LADD: Go on.

A. The first proposition is the strictly intrastate business which originates in Missouri and terminates in Missouri. Undoubtedly

there are two distinct terminal services required in the handling of such a shipment. The second, is the class of shipments that originate outside of the State and are destined to points within
3268 the State; or, that originate within the State and have destination outside of the State, interstate shipments both of them, which are delivered to a connecting carrier at a point within the State of Missouri. Now, on that class of interstate shipments there are two terminal charges.

The MASTER:

Q. That is as far as Mr. Ladd's question went, as I understand it.

A. Now, on a shipment that originates within the State of Missouri or is destined to a point within the State of Missouri, that comes to a junction point of interchange with the Missouri Pacific Railroad, that is outside of the State of Missouri, there is only one terminal expense within the State of Missouri, the other having been incurred within some other State where the business was interchanged with the connecting line.

Mr. HAGERMAN: What is the third case?

A. The third case is where it comes all the way through; and that is simply a transit, thoroughfare condition.

The MASTER:

Q. That condition arises in this case by reason of the fact that there are points of junction with other connecting roads and the Missouri Pacific Railroad, outside of the State of Missouri, which has not occurred so far as I remember, in either of the other cases tried?

Mr. LADD:

Q. You spoke of shipments, or fourth class, originating outside of the State and passing through the State into another State: That is your fourth class?

A. Yes, sir. As for instance a shipment of lumber from
3269 a point in Arkansas that passes over the Missouri line and then into say Omaha.

Q. Would that be entirely on your own road?

A. That would be entirely on the Missouri Pacific and the St. Louis Iron Mountain Southern.

Mr. HAGERMAN: Take it around by Coffeeville, and it would be entirely on your own road?

A. Yes, sir.

Mr. LADD:

Q. Take the map and point out any case of a shipment originating outside of the State that passes through the State and still be on the Missouri Pacific road?

A. A shipment might originate for instance at Chetopa down here on the border.

Q. That is in Kansas?

A. That is in another State.

Q. I understand that?
A. And move up to Kansas City and into Nebraska, a continuous service.
Q. Is there very much of that, Mr. Stith?
A. There is quite a good deal of business interchanged from those sections up here (indicating on map) and down here (indicating).
Q. Does it go via Chetopa?
A. It passes the length of the State of Kansas and is delivered down here, on through trains.
Q. Is there any substantial amount of business which originates on your road in one State, passes through Missouri and into another State, still on your road?
A. No, sir, the volume would not be very great.

3270 The MASTER: Mr. Kennish, do you desire to continue the subject you were exam-ing the witness on when you were interrupted.
Mr. KENNISH: No, sir.

3271 F. P. JOHNSON, a witness of lawful age, being duly produced, sworn and examined, on the part of the Complainant, testified as follows:

Direct examination.

By Mr. FRANK HAGERMAN:

Q. What is your full name?
A. F. P. Johnson.
Q. And your business is what?
A. Clerk in the Accounting Department of the Missouri Pacific Railway Company.
Q. At St. Louis, Missouri?
A. Yes, sir.
Q. How long have you been engaged in the railroad accounting business?
A. Since February, 1889.
Q. And what were the various places you have occupied in connection with that work?
A. I began in the Auditor's office, the Voucher Department, as messenger boy, and have been engaged continuously in the Auditor's office since then.
Q. With the Missouri Pacific Railroad System?
A. With the Missouri Pacific Railroad System.
Q. And how long before you got into the Accounting Department proper?
A. The Auditor's office is the accounting office.
Q. You say you started first as messenger boy; I mean in dealing with accounts?
3272 A. About fifteen years.
Q. Will you take in your hands and have before you a copy of Exhibit 5: By whom was that statement prepared?

A. Part of it was prepared by the clerks in my department and part by the Statistical Department.

Q. The part which was prepared in your office, was that under your direction and immediate supervision?

A. Yes, sir.

Q. And which part of the material was thus prepared?

A. That portion relating to the expenses of the Missouri Pacific Railroad Company in Missouri, or Pages 4 and 5 of Exhibit 5.

Q. By whom or under whose supervision was the portion of that statement made up which relates to the earnings?

A. That was prepared in the Statistical Department under the supervision of Mr. Roth.

Q. He taking the earnings end of the investigation and you the expense end, the combined work was put into this statement that is marked Exhibit 5?

A. Yes, sir.

Q. And that was delivered to the State and its experts when, do you remember?

A. About August 15, 1906.

Q. The total expense for all business done in Missouri was what?

A. For the year 1904, the total expense was $8,221,376.20. That included taxes, rental and interest on our bonded
3273 indebtedness.

Q. And that is shown in detail on Page 5 of this Exhibit 5?

A. Yes, sir.

Q. And more particularly I wanted to get at the total as to freight.

A. The total freight expense for the year 1904, was $5,228,120.75.

Q. And that included for interest upon the bonded indebtedness, what?

A. $657,116.22.

Q. Eliminating taxes, rentals and interest upon the bonded indebtedness, the total operating expense chargeable to freight, according to this statement was what?

A. $4,442,795.51.

Q. That now is for 1904?

A. Yes.

Q. For 1905 the grand total was what?

A. $5,030,585.34.

Q. Included in that was how much for interest on bonded indebtedness?

A. $657,116.22.

Q. And then when you exclude taxes, rentals and interest upon bonded indebtedness, what was the total for that year?

A. $4,234,884.

Q. In ascertaining the operating expenses did or did not you, turning back to Page 4 as to the method of arriving at the
3274 results,—what did you do as to the operating expenses which were incurred wholly within the State: There was no difficulty in ascertaining those and putting them in, I presume?

A. No, sir.

Q. And they went into the statement just as they are?

A. Just as they are on our books.

Q. What is meant by the statement on Page 4 "where that portion of the expense applicable to the lines in Missouri can not be determined the State of Missouri is charged with its proportion on a track mileage basis."

A. I might say in explanation of this statement that our road, for operating purposes, has been divided for a number of years into what we call "accounting districts." The lines in Missouri are practically—or, rather, the lines in Missouri are divided into accounting districts that lie practically wholly within the State. We have some exceptions and in that case we take the entire expense of the accounting division and divide it between the two States through which it runs and divide it on practically a mileage basis. That applied to two or three divisions with small track mileage.

Q. How long has that system been in vogue?

A. Since May 1, 1900. Those divisions have been subject to change since that date, but we have adopted that system since that date.

Q. Go on with Page 4. In dealing with the question of charge for maintenance of way and structures, how did you make that
3275 division as between—I see you have one figure for freight and one for Passenger: How did you get that division?

A. We divide the entire charge of maintenance of way and structures between freight and passenger, upon a train mileage basis, on the theory that we cannot distinguish the expenses.

Q. How long has that system been in vogue?

A. On our line?

Q. Yes.

A. Since the instituton of the accounting divisions, or since May, 1900.

Q. And that is the usual and ordinary way you have kept your accounts?

A. Yes, sir.

Q. Take the next. Your remarks there would apply with reference to the maintenance of rolling stock?

Mr. LADD: Do you mean to confine that to revenue train mileage?

A. Yes, sir, revenue train mileage.

Mr. HAGERMAN:

Q. I observed for instance, turning to Page 5, when you get to maintenance of way and structures you have the same total there on that account and then it is sub-divided on a certain portion to freight and a certain portion to passenger: What you mean to say in this explanation of Page 4 is that that division is arrived at in the easy and ordinary method your company has had of keeping the accounts, by making a division on a train mileage basis?

A. Yes, sir.

3276 Q. Is that a common and usual thing among railroad companies, or do you know?

A. I believe that is the customary rule on all railroads, to divide expenses between freight and passenger.

Q. And your road does it that way?
A. Yes, sir, it does it for a particular purpose.
Q. Coming to the question of maintenance of rolling stock, I find this language on Page 4 "all freight and passenger expenses are included under their respective headings. All common expenses charged to each division is divided between freight and passenger on a revenue train mileage basis." As I understand that, the first sentence "all freight and passenger expenses are included under their respective headings" by that you mean where there is any expense that is strictly freight it goes into the column of "freight"?
A. Yes, sir.
Q. And if it is strictly passenger it goes under the head of "passenger"?
A. Yes, sir.
Q. But when common and applicable to both, then you have divided it upon the basis of which you speak here?
A. That is right.
Q. And that has been the system you have had in vogue here on your road for years?
A. Yes, sir.

Mr. LADD:

Q. You mean that is the way it is on your books?
A. Yes, sir.

3277 Mr. HAGERMAN:

Q. I presume what you mean by the words "under their respective headings" is what I said, if it is an item you can see at once that it pertains to freight, and freight alone, it goes in your column of "freight expenses"?
A. Yes, sir, in other words if it refers to freight cars it is chargeable to freight and if it refers to passenger cars it goes to passenger.
Q. And in that case there would not be a division on a train mileage basis?
A. No, sir.
Q. Give an example of a common expense where you divide it.
A. Stationery and printing furnished would be a common expense. We would be unable to tell the exact proportion chargeable to freight and to passenger business. As a result we take the total charge on each accounting division, and divide that between freight and passenger on the basis of the train mileage made on that division. The same would apply to the charge shop machinery and tools.
Q. That is, the shop machinery and tools would be used alike?
A. Yes, sir. Subsequently to July 1st, 1905, the same thing would apply to repairs to locomotives.
Q. Take the next, under the head of the explanation on Page 4 here, "conducting transportation," which is the third item on Page 5, if you have it sub-divided as between freight and passenger and

totals: Now your explanation is, all freight and passenger
3278 expenses are included under the respective headings. By that I take it you mean the same as you said in reference to the maintenance of rolling stock?

A. Yes, sir.

Q. That is to say, where there is something that is clearly the conducting of freight, it goes to a freight expense, and where it strictly relates to passenger it goes to the passenger expense?

A. Yes, sir.

Q. Now, then, all the combined station expenses and the expense of mixed trains are divided three-fourths freight and one-fourth passenger: What do you mean in the first place by "all combined station expenses?"

A. I mean the wages of the employés and the supplies furnished at the station, that is both freight and passenger. That is, where the agent and his force are engaged in both classes of business.

Q. That is to say, at many places, especially out through the smaller towns in the State, the station is a common one for both freight and passenger?

A. The agent is what we call "a combination agent."

Q. In that connection you have also "mixed trains:" What do you mean by "mixed trains?"

A. A mixed train is a train that is engaged in both classes of service. It will carry a passenger coach and also carry freight cars.

Q. Where did you get the idea and why is it done, of dividing that expense, practically three-fourths to the freight and
3279 one-fourth to the passenger business.

A. The combined station expense has been divided on that basis by our company for 18 years, to my knowledge, and I think since the institution of their system of keeping accounts.

Q. For 18 years that has been the system there. Do you think that is a fair division as between those two?

A. I do. The cost based upon the earnings of our company as divided between freight and passenger, the expense of mixed trains is divided upon the same basis as that authorized by the Interstate Commerce Commission for the division of mixed train mileage. That is up to within a year or two ago.

The MASTER:

Q. How long has that rule obtained in your office?

A. 18 years to my knowledge.

Q. Anterior to the Interstate Commerce Commission.

A. Ever since I can remember that has been our system.

Mr. HAGERMAN:

Q. I am going into this a little in detail for so far as I can see every railroad seems to have a different system of keeping accounts. And it will aid these gentlemen on the other side to understand on what theory it is prepared.

Mr. HAGERMAN:

Q. The next is yard expenses 95% freight and 5% passenger. In the first place, what do you mean by yard expenses?

A. The wages of our switching crews at the large terminals principally, although we have them at smaller terminals. The wages of the crews and the expense of the engines, in switching service.

3280 Q. Then practically yard expenses means the expense in the terminals.

A. The expenses of switching within the terminals. Of course it does not apply to an agent or any of his office force.

Q. You have that divided 95% to freight and 5% to passenger: Where does the idea as to that come from and how long has it been in vogue?

A. That method of dividing yard expenses was adopted by our company on the first of July, 1905.

Q. How had it been divided before that, do you remember?

A. Before that it was customary to charge the entire yard expense to freight.

Q. And for how long a period of time had they been in the habit of charging the entire yard expense to freight?

A. For some 17 years prior to that, to my knowledge.

Q. As a matter of fact that yard expense, the part of it was done for the passenger trains, is practically insignificant, compared to what is done for freight?

A. Yes, sir.

Q. And do you know how they came to charge it, charging 5% to passenger?

A. As I understand it, it was based upon the mileage of our switch engines in each class of service. It was a percentage that was determined by our operating department.

Q. From the practical experience in your different yards?

A. Yes, sir.

3281 Q. You had figured out the mileage itself between the engines that were essential to the freight part of that terminal traffic and the passenger part, and it was considered fair to charge the passenger with its percentage?

A. Yes, sir, 5% of the total expenses.

Q. That system began the first of July, 1905?

A. It began the first of July, 1905. That is, our method of handling it in that way began at that time. In order to make this statement uniform we went back over our figures for two years and applied that same percentage.

Q. If you had taken your books literally there would have been a portion of that up to July, 1905, where the passenger would not have gotten any credit for any of that?

A. They would have had to stand none of that.

Q. But so far as this case is concerned, the State gets the benefit of it for the whole period?

A. Yes, sir.

Mr. LADD: May I ask a question right here please?
Mr. HAGERMAN: Yes.

Mr. LADD:

Q. Please look at Page 47 of your Annual Report for the last fiscal year and if you can tell me what the items under the head of conducting transportation you include in what you call in this statement "yard expenses."

A. These accounts are not numbered. They are our regular system of doing business.

Mr. HAGERMAN: On the regular books they are numbered?

A. Yes, sir. The yard expenses embrace yard supervision, yard men, yard engine men and firemen, yard locomotives
3282 fuel for.

Mr. HAGERMAN:

Q. The next statement is "all other expenses common to both classes of freight are divided on a revenue train mileage basis: What does that mean?

A. That means that under the head of conducting transportation where we are unable to determine the exact proportion of any account as between freight and passenger, we will use the train mileage as a basis.

Q. And how long has that system been in vogue?

A. For at least 18 years.

Q. Now let us go to the next, "loss and damage": Expenses under this account are charged direct to freight and passenger when possible: What does that mean?

A. Loss and damage to freight in transit would be a freight expense.

Q. That would be a plain case where you would charge it direct to freight?

A. Yes, sir.

Q. I take it from that, that wherever you can ascertain that there is any loss or damage that is attributable directly to freight it goes into the freight account directly?

A. Yes, sir.

Q. And vice versa, as to passenger?

A. Yes, sir. Loss and damage to baggage would be a passenger account.

Q. "When the class of service responsible for loss or damage cannot be determined, the expense is divided upon a
3283 train mileage basis". Give an illustration of what you mean by that, and explain it.

A. We may have damage to stock. A claim is filed with the company and the liability is established so far as damage to that stock is concerned. But the company will be unable to determine whether the stock was damaged by a freight train or a passenger train. We consider that a common expense and pro-rate it between the two classes on a train mileage basis, just as the maintenance of way and structures or any other common account.

Q. How long has that system been in vogue?

A. Practically the same length of time, practically 18 years to my knowledge.

Q. Finally you come to "general expenses" in which you say the total charges to each division under this account is divided on a train mileage basis: What is the meaning of that statement?

A. General expenses consist of salaries and expenses of our general office employes.

Q. And how long has that system been in vogue of making that division?

A. That has been in vogue since the first of May, 1900. Prior to that time we made no attempt to divide general expenses between the two classes of service.

Q. The taxes that you enter upon Page 5, that is something that is ascertained directly I presume.

A. We take the total charge to taxes or the total amount
3284 paid for taxes during the year and pro-rate it between the two classes of service on a total train mileage for that year, in order to get the freight and passenger proportion.

Q. How long has that system been in vogue?

A. We have never been required to divide taxes except for the purposes of this suit.

Q. You never had divided it before?

A. No, sir.

Q. How did you deal with it on your books before?

A. It was just charged to taxes.

Q. In which account did it go?

A. Neither freight nor passenger.

Q. Before the question came up in this case, taxes were an independent account and really not treated as part of the operating expense?

A. That is it. Our plan was to divide the expenses between freight and passengers for the benefit of our operating department, and they do not enter into any annual report.

Q. Your books were kept separate as a separate thing?

A. Yes, sir.

The MASTER:

Q. Just as your general expense account, prior to May, 1905?

A. Yes, sir, prior to July, 1900.

Mr. HAGERMAN:

Q. July 1, 1905, as I recall it, was the time they divided the freight expense so as to put part of it to passenger.

For the purposes of this case, has your accounting depart-
3285 ment kept separate passenger and freight, you adopted the same plan to divide the taxes as you had with other common charges on a train mileage basis?

A. Yes, sir.

Q. And you think that is fair, in view of your knowledge of the

situation and the way business has been done by the Missouri Pacific Railroad?

A. I do not think it is fair.

Q. Why not?

A. I believe if taxes were properly apportionable between the two classes, freight should be a greater proportion than passenger.

Q. Why?

A. On account of the volume of business and possibly the responsibility of the road.

The MASTER:

Q. The greater proportion per train mile?

A. No, sir, they should pay a greater proportion than the train mile would amount to. We now divide it on a train mileage basis but I believe if it is fairly divided the freight proportion would be larger than a train mileage would bring.

Mr. HAGERMAN:

Q. To make your meaning plain, there never had been any occasion in keeping your books to divide the expense of taxes, or treat it as an operating expense and apportion between freight and passenger: But you of your own responsibility, in getting up this statement made this division on the plan you stated, simply because the other common expenses had been divided that way?

3286 A. Yes, sir.

Q. The item of rental for each of these years, on Page 5, what is meant by that?

A. They are rentals paid by our company for lines belonging to other railroads.

Q. That is where you have a joint trackage arrangement?

A. Yes, sir, where we have a joint trackage or where we operate them for our own purposes.

Q. Give in a general way an illustration where you run over someone else's track.

A. We are leasing the Boonville, St. Louis and Southern Railway Company running from Versailles to Boonville.

Q. How many miles is that?

A. 43.95 practically 44 miles.

Q. Instead of actually owning that property you have a lease on it and practically operate it as part of the Missouri Pacific line?

A. Yes, sir.

Q. Then what other item is there?

A. We are leasing that part of the Hannibal and St. Joe between Rushville and St. Joe.

Q. The Missouri Pacific runs from Kansas City out into Kansas up to Leavenworth and Atchison and across the Missouri River again and reaches St. Joe?

A. Yes, sir.

Q. You run on your own track until you get to Rushville?

A. Yes, sir.

3287 Q. How close is that to St. Joe?

A. We run on our own track to Winthrop, then over the Kansas City, St. Joseph and Council Bluffs R. R. to Rushville, the distance from Winthrop to Rushville is 5.6 miles.

Q. When I used the word lease, you mean you have a running arrangement by which your trains are permitted to run over that track?

A. Yes, sir.

Q. From Rushville to St. Joe?

A. Yes, sir.

Q. A distance of what?

A. 15.4 miles we lease from the Hannibal and St. Joe line.

Q. That again is a trackage arrangement as distinguished from a lease?

A. Yes, sir.

Q. That is where you get your entry into St. Joseph?

A. Yes, sir.

Q. Go back to the Versailles road: Do you have any equipment or have the right to operate over the track or does it have any right?

A. In the case of the St. Louis, Boonville and Southern we lease the entire rights to that line and operate it just as though we owned it ourselves.

Q. That is not a running arrangement?

A. No, sir.

Q. In the other cases you simply run your power over
3288 their road?

A. Yes, sir.

Q. Go on.

A. The additional track we lease is from the Santa Fe from Eaton to Congor.

Q. Where is that?

A. Just east of Kansas City. That is the loop which we lease from the Santa Fe.

Q. What is the distance?

A. 7.82 miles.

Q. Is that the leasing of a railroad or a running arrangement?

A. That is a trackage arrangement we have with them. Part of that track we own ourselves.

Q. It is shown on this map produced by Mr. Stith, as running from Lake City to Rock Creek?

A. That is the entire mileage of the detour.

Q. Of that loop you own part?

A. Yes, sir.

Q. And the balance is owned by the Santa Fe and with the Santa Fe you have a running arrangement?

A. Yes, sir.

Q. Turning back to Page 2 of this Exhibit 5 I don't know whether that would pertain to your part of the work or not, but if it does you can explain it:

"Bridge and ferry tolls, transfer and refrigerator charges
3289 have also been deducted from the earnings figures as these arbitrary charges are not included in expenses:" Do you understand that?

A. Yes, sir.

Q. As a matter of fact charges on that account are not included in your statement as to the expenses?

A. No, sir.

Q. But they have by Mr. Roth been deducted from the earnings figure?

A. The reason for that was that under our old system of accounting, in force prior to the first of July, 1905, it was a rule for us to charge all switching expenses, that is, switching paid foreign lines to our operating expenses; bridge and ferry tolls were also charged to operating expenses. But under the system in vogue from July 1, 1905, up to the present time, the expenses of that class are not considered as operating expenses by our management and are not so charged; and in order to make this statement of expenses and earnings uniform for the entire two years, we deducted all expenses of that kind from our books.

Q. Under the system of accounting adopted in July, 1905, in the midst of this period, instead of putting in everything paid on account of bridge and ferry tolls as an expense for that portion of the period, it was treated by simply deducting it from the earnings?

A. Yes, sir.

Q. To cover the entire period, when without that break you have treated it that way from the beginning?

3290 A. Yes, sir.

Q. What is the practical result, so far as the State is concerned, in doing the matter that way?

A. Well I should say in the net result the State would derive some benefit from that, because under the old system we would charge all the switching incurred in the State of Missouri, to Missouri. All bridge and ferry tolls would be charged to Missouri.

Q. You carried it back to the beginning of the period so as to have no break in your figures?

A. To make it uniform as nearly as possible.

Q. Those things instead of coming into your statement of expense, are treated in that way?

A. Yes, sir.

Q. Give a concrete illustration of that to the Master.

A. Bridge and ferry tolls paid——

Q. Take one case as an example, just a plain one.

A. Where we would pay bridge or ferry tolls at St. Louis on a shipment crossing the river, it would be an expense to our line within the State and so charged. In deducting that from our operating expenses we have deducted the entire amount. While in the case of the earnings only a proportion of that bridge toll composed of the Missouri part of the inter-state haul would be deducted from Missouri's earnings.

Q. The next statement is, and I suppose that comes in connection with the same statement you have made, "Switching, demurrage and storage, service incidental to freight traffic, show net receipts,
3291 of monies paid out to foreign roads having been deducted from gross receipts:" in other words you have not——

A. That is distinctly an earning feature.

Q. What I am getting at is, you have not entered in your expense account anything on that account, because of this statement here?

A. No, sir, we have deducted all items paid to foreign lines for switching, from our expenses.

Q. Freight expenses or receipts?

A. I say under the system in vogue prior to July 1, 1905, switching would be charged to expenses. Now, in order to make the statement uniform, we have eliminated all our switching charges from these figures we submit as expenses in the State of Missouri.

This last note on this statement, as I understand it, refers to the second line of sheet 3, earnings incidental freight.

Q. What they turn in there is what is coming to them net?

A. Yes, sir, net earnings.

Q. That is to say, if they were getting ten dollars return for a shipment and they paid out a $2 switching charge to someone else, instead of having the ten dollars entered and the two dollars charged to expenses, the eight dollars goes into the earnings as to that switching account: That is the situation, isn't it?

A. That is the situation on a State shipment.

3292 Q. I observe upon the first page a note that the expense of handling local freight is arrived at by dividing the total freight expenses on per cents based on the gross earnings after adding 50 per cent to the local earnings on account of the extra cost of handling local business as compared with inter-state business: What does that mean and how did that statement come to be made?

A. You are referring to the last note on the first page?

Q. Yes.

A. Our method for determining the expense chargeable to local business in the State, has been to divide the total freight expense on an earnings basis; but before arriving at those percentages we apply, or rather we added 50 per cent to our local earnings, in order to add 50 per cent to the cost of doing the local business.

Q. And that 50 per cent thus added to the local earnings in order to work out that example, represents about how much extra cost for doing the State over the inter-state business?

A. Off-hand I believe it amounts to about six times the cost of the inter-state business.

Q. Where do you get the idea of figuring out an extra percentage upon that account, from what source?

A. What do you mean?

Q. The 50 per cent.

A. It is my opinion that the cost of handling local freight is several times greater than the cost of handling inter-state freight, and applying 50 per cent of our local earnings it would give us about six times the cost.

3293 Q. Based upon what basis?

A. On the increase of cost of doing the local business as compared with inter-state.

The MASTER: I declare I cannot quite gather that. How does the application of 50 per cent amount to a multiplication by six?

Mr. HAGERMAN: That is what I do not understand.

Q. Turning back to page 3 local earnings are what per cent of the total freight earnings for 1904: Have you that?

A. We haven't it in figures but I can give it to you in a few minutes.

Q. Will you prepare a short statement showing for the year 1904, what proportion your per cent of the total freight earnings to local freight earnings were, for both 1904 and 1905?

A. Yes, sir.

Q. And then applying that percentage to the expense for those years show what the expense would have been on that basis?

A. Yes, sir.

Q. Now, if I understand you aright, upon adding this 50 per cent to the local earnings you get what in your judgment would represent the increase of cost; it was not simply saying that it cost 50 per cent more to do the local or State business than it did the inter-state?

A. No, sir.

Q. But in your judgment there was an increase of cost which you arrived at in this way: You took the local earnings and added 50 per cent to them and then found what percentage that was
3294 of the entire earnings thus increased?

A. Yes, sir.

Q. And then use that multiple upon the total expenses?

A. Upon the total freight expenses.

Q. And that gave you these figures which you have mentioned?

A. Yes, sir.

The MASTER: That multiple was usually about six, you think?

A. I think it would be practically about six times the cost. In other words, it is 50 per cent over the earnings basis. To divide your operating expenses upon percents based upon your earnings as they stand in this statement, would give you a division upon an earnings basis. Now I have added 50 per cent to our earnings in order to get something like what we consider the increased cost of handling local business.

Q. Where did you get the idea of increased expense—just your own judgment?

A. No, sir, it was a matter of discussion between myself and our people and our office.

Mr. LADD: I understand you to say you think it costs six times as much to do the local business as to do the other business.

A. That is my opinion.

Mr. HAGERMAN:

Q. Based upon what?

A. On what I have seen of the accounts of the Missouri Pacific

Railway and what I have heard from those operating officers.

3295 Q. From your observation of the business. Give us some of the reasons that made you think that.

A. My principal reason would be that the great bulk of our State business is hauled in what we call our local trains.

Q. That is your way trains?

A. Yes, sir.

Q. Wherein is there any increase of cost there?

A. Our local trains are a good deal more expensive per mile than our through trains. In fact it is our local trains that are costing us the over-time we are compelled to pay our train crews to a great extent.

Q. What do you mean by over-time?

A. The time they are allowed over and above the ten hours they are supposed to put in.

Q. That is extra time?

A. Yes, sir.

Q. Give some other features of extra expense.

A. I believe there must be a great movement of empty cars.

Q. What do you mean by that?

A. In hauling our carloads of State freight to its destination it very often becomes necessary, in my estimation, to return those cars empty, for lack of freight to bring back on the return movement.

Q. Give some of the other elements.

A. Those are the principal elements I think of now.

Q. Did you deal with the question of extra terminals?

A. To some extent they would cut a figure.

3296 Q. The loss of time in having cars at way stations waiting?

A. As to that I cannot say. Of course my opinion on that is very general.

Q. As I understand your opinion, it is not given so much from the actual conducting of the road but it is simply your observation from the keeping of the accounts these years, and the information you got from the different officials?

A. Yes, sir, what I hear from the operating officials.

Q. You understand what you are to bring in in the morning is a statement of the expenses upon the basis of the revenue, what percentage that is?

A. Yes, sir.

Q. And also the example worked out by which you apply to meeting this supposed increase of doing the local business over the inter-state business worked out in an example so as to show exactly how it is done?

A. Yes, sir.

Mr. HAGERMAN: That is all I wish to ask Mr. Johnson at the present time.

The usual hour for adjournment having arrived, the further hearing of proceedings herein was adjourned until Wednesday, January 16, 1907, at ten o'clock a. m.

3297 ST. LOUIS, MO., WEDNESDAY, *January* 16, 1907.

Met pursuant to adjournment as above, on January 16, 1907, at ten o'clock a. m., in the Federal Building in the City of St. Louis, Missouri.

Present: Mr. F. L. Schofield, Special Master. Mr. Frank Hagerman appeared in behalf of the Complainant. Messrs. John Kennish and S. B. Ladd appeared in behalf of the Defendant.

The following proceedings were had:

Direct examination of Mr. F. B. JOHNSON, continued.

By Mr. FRANK HAGERMAN:

Q. Mr. Johnson at the time of the adjournment last night we were dealing with your notation on Page 1 of Exhibit 5: Where you note that the expense of handling local freight is arrived at by dividing the total freight expense on per cents based on gross earnings after adding 50 per cent to the local earnings on account of the extra cost of handling State business as compared with inter-state business; and you were to prepare some statements: First, showing the percentage of the freight earnings freight State business: Have you done that?

A. Yes, sir. That is for the year 1904.

Q. Will you produce this as an exhibit here?

A. Yes, sir.

Mr. HAGERMAN: I will offer in evidence the paper as Complainant's Exhibit 6. The paper referred to is in the words and figures following, to-wit:

3298 Q. Take the freight earnings for the year 1904, what per cent of the gross State earnings in the State were the State freight earnings?

A. 27.12.

Q. That left for the inter-state 72.88?

A. Yes, sir.

Q. And applying that percentage so as to divide expenses simply upon the earnings, what is the expense for 1904 of the State freight?

A. $1,417,866.35.

Q. And the inter-state?

... $3,810,254.40.

Q. Upon that kind of a division there has been nothing added on account of any extra cost of doing State business, if there is any such thing?

A. No, sir.

Q. That is simply taking a division of the expense in Missouri upon the basis of the freight earnings in Missouri?

A. Yes, sir.

Q. In making up and compiling your statement you speak of adding 50 per cent to the local earnings and that created some confusion, at least in my mind: Have you upon this exhibit illustrated how that was done and carried out?

A. Yes, sir. The lower set of figures sets that out.

Q. The total State freight was $1,581,689.11?
A. Yes, sir.
Q. In doing your problem you added 50 per cent to that?
A. Yes, sir.
3299 Q. That gave $2,372,533.66?
A. Yes, sir.
Q. And to that you added the earnings from the interstate freight?
A. Yes, sir.
Q. That gave how much?
A. A total of $6,621,996.46.
Q. And that made then what percentage as between each class?
A. The intra-state percentage would be 35.83 per cent.
Q. And the inter-state?
A. 64.17 per cent.
Q. And when applied to the expenses it gave the figures mentioned in your report, your Exhibit A?
A. Yes, sir.
Q. What confused me about that, Mr. Johnson, when I was asking you about it last night, in the first place, was the adding of 50 per cent to the earnings; instead of doing the example like Mr. Sturgis, for instance, did it in the Burlington case. Have you applied the situation and made the calculations just in accordance with the way Mr. Sturgis did?
A. I believe we reached the same result that Mr. Sturgis did, perhaps a little more correctly.
Q. Have you now upon this Exhibit 6 figured out an example according to the method that Mr. Sturgis did?
A. Yes, sir.
Q. And that represents now the third set of figures on this paper?
3300 A. Yes, sir.
Q. That is to say, actually upon the basis of earnings, the State business was 27.12 per cent and the inter-state 72.88 per cent?
A. Yes, sir.
Q. And multiplying the inter-state by 1½ or saying it cost 50 per cent more to do the State than to do the inter-state business, gave you 40.68, which added to the 72.88 makes the total percentage 113.56?
A. Yes, sir.
Q. Thus making the State earnings 35.83 per cent and the inter-state 64.17 per cent?
A. Yes, sir. Using that 27.12 per cent of the inter-state earnings to the total earnings would bring a percentage to apply to the instance of 35.82 that would be caused by dropping the fraction in your 27.12 and raising your 72.88.
Q. Carrying out the fractions in both cases would come out the same?
A. Would bring the same result, I should say.
Q. In other words, Mr. Sturgis' basis of figuring extra cost, if it is the fair way to do it, and no criticism seems to have been taken to his doing it, he multiplies the present State business by 2, 3 or what-

ever additional cost of doing the business is concerned; whereas instead of multiplying that per cent in your doing the example, you took the actual figures that reach that per cent of the earnings?

A. Yes, sir, and as a result we had only one decimal to deal
3301 with instead of two.

Q. That is, the State earnings were 27.12 per cent of all the freight earnings?

A. Yes, sir.

Q. One way to do it, and the way it was done in the Burlington case, would be to apply your multiple to that per cent?

A. Yes, sir.

Q. And when you did it you applied the multiple to the figures instead of to the per cent itself?

A. Yes, sir.

Q. And the result is if you carry it out in fractions it comes out exactly the same?

A. Yes, sir.

Q. And that you say is equivalent to saying that it cost 50 per cent more to do the State business than to do the inter-state business?

A. Yes, sir.

Q. Why in that case do you multiply by 1½?

A. We raise our original figure 50 per cent.

Q. And that makes a multiple of 1½?

A. Yes, sir.

Q. You could do it in a round-about way *way* by dividing it in half, either the percentage or the actual dollars, and then adding that to the principal sum?

A. Yes, sir, adding that half to the principal sum.

Q. But the short way for the accountant to do it is to mul-
3302 tiply it by 150 per cent?

A. I don't know that it would take any less time to do it.

Q. But that is the way it strikes an accountant to figure it?

A. Yes, sir.

Q. Suppose it costs twice as much, that would be equivalent to what, 100 per cent more or 200 per cent more?

A. I should say if it costs twice as much to do the State?

Q. If it costs twice as much to do the State as the inter-state business? What I am getting at is, 50 per cent represents 1½ times more. Twice as much would represent how much more?

The MASTER: That would be equivalent to 100 per cent more.

Mr. HAGERMAN: The reason I am asking that question is, that someone said during the course of the trial that when you say three times it was 300 per cent more. That is not true because the first 100 per cent is in.

Mr. HAGERMAN:

Q. If Your Honor please, if there is anything about that you do not understand I would be glad to have you ask the witness about it now.

The MASTER: I understood the witness to say that the result of adding the 50 per cent as shown by note 1 of Exhibit 5, was equiva-

lent to multiplying the expense of doing the local freight busi-
3303 ness in the State as compared with that of the inter-state business by six.

Mr. HAGERMAN: I understood him to say that but he misunderstood me.

The MASTER: If Court and counsel did so understand him, do you wish to say that was a misunderstanding and you did not wish to be so understood?

A. I certainly do if that was the understanding of the answer.

Mr. HAGERMAN:

Q. What did you understand we were asking you about?

A. I understood in one of your questions you asked if the 50 per cent increased cost in conducting State business as compared with inter-state, represented what I considered the actual increase in the cost of the State business. And I intended to convey by my answer that rather than 50 per cent increased cost of conducting State business it would be nearer six times.

Q. As a matter of fact?

A. As a matter of my opinion.

Q. To make that plain, let us take your example here as you did it, take it in percentages because that is simpler, the last set of figures on Exhibit 6: Suppose it did cost six times as much to do the State as the inter-state business, the 27.12 would be multiplied by what instead of 1½?

A. The 27.12 would be multiplied by six.

Q. That would equal what?

A. 162.72.

Q. As against 40.68?

A. Yes, sir.

3304 Q. That would be added to 78.88 and make what?

A. 235.60.

Q. As against the total of 113.56?

A. Yes, sir.

Q. Reducing that to percentages, what per cent would apply to the State business?

A. It would be approximately 69 per cent.

Q. Leaving what for inter-state?

A. 31.

Q. And the 69 would be in lieu of the 35.83, and the 31 in lieu of the 61.17?

A. Yes, sir.

Q. So it would not be possible that your figures as applied here could be the equivalent of six to one?

A. No, sir.

Q. And while I understood you and the Master understood you in the way we indicated, you didn't mean it in that sense?

A. No, sir.

Q. As a matter of fact do you know anything or do you regard yourself as competent to go into this question of the increased cost?

A. No, sir.

Q. That is to say, you are not an expert upon that subject?

A. No, sir.

Q. You have heard all the testimony that has been given in this case?

A. Yes, sir.

3305 Q. And you formed your own judgment from that?

A. It is an operating man only that could tell anything about that, in my estimation.

Q. Have you had anything to do with operation, to enable you to speak as an expert?

A. No, sir.

Q. But you have heard the testimony given in the Burlington and Wabash and in this case?

A. Yes, sir.

Q. And you have a general opinion of what the contentions of the experts are upon that subject?

A. Yes, sir.

Q. When the blank was gotten up upon which you were to fill out the extra cost of doing local business was left blank, to be determined by witnesses: I think that is the way it was in the Burlington case and read that way: How did you come to take 50 per cent?

A. It was the smallest figure that we could take. In other words it was the minimum of the increase of cost of doing State as compared with inter-state business.

Q. You simply took a blank that showed a loss and stopped at that?

A. Yes, sir.

Q. For the purpose of completing your statement?

A. Yes, sir.

Q. Was there any purpose to indicate that was the limit of the increased cost?

3306 A. No, sir, I did not understand that was our intention at all.

Q. But even upon the basis of 50 per cent increase of expense of doing the State over the inter-state business, the result would be according to the figures as you have given here?

A. Yes, sir.

Q. Have you prepared a similar statement to this Exhibit 6 for the earnings of 1905?

A. I have the statement for the third set of figures to it.

Q. Will you add that third set of figures so as to complete it?

A. Yes, sir.

Q. Will you then produce as Exhibit 7 a similar statement to Exhibit 6, showing the result in the same way for 1905, as distinguished from 1904?

A. Yes, sir.

Q. Adding thereto the third set of figures showing it was equivalent to costing 50 per cent more?

A. Yes, sir.

Cross-examination.

By Mr. S. B. LADD:

Mr. LADD: I wish to enter upon no extended cross examination of this witness at present but will ask him a few questions bearing upon these statements.

The MASTER: I understand the counsel for the State and their experts are now engaged in reviewing certain data from the
3307 books of the company and have not yet had time to complete it, and they have given me to understand, and I can readily so understand, that a full and fair cross-examination of the accounts of the company can not be had until they are in possession of all the facts to figure on, or the data they are now seeking. I think it is fair that they have opportunity to complete that before entering upon the cross-examination of these accounting witnesses. If there are any objections to that it should be made known.

Mr. HAGERMAN: I do not see much use in examining at all until they are ready to cross-examine the witnesses.

Mr. LADD:

Q. Did you divide the accounting division covering the Kansas City terminals, on a road mileage basis, and charge Missouri with only a part of it, or did you charge it all to Missouri?

A. We charged the entire expenses of the Kansas City terminals to Missouri.

Q. How many miles are in the State of Kansas?

A. I believe it is five. I won't be positive of that.

Q. Can you tell now, Mr. Johnson, how much less the amount charged on that account would have been if you had only charged to that account the expense of that part of the terminals in Missouri?

Mr. HAGERMAN: According to the mileage?

A. No, sir, I cannot.

Mr. HAGERMAN: Did you give the rate mileage in Missouri?

3308 A. I gave the approximate mileage in Kansas.

Q. Which was five?

A. Yes, sir.

Q. Did you give it for Missouri?

A. No, sir.

Mr. LADD:

Q. Could you ascertain that for each year and give it to us later on?

A. That would be impossible for the first 18 months of this period.

Q. You mean all of 1904, and the first half of 1905?

A. Yes, sir.

Q. Why?

A. Because the expense of the Kansas City terminals has never been kept separate, prior to July 1, 1905.

Q. You can do it for the last half of 1905?

A. Yes, sir.
Q. Do that then.
A. Yes, sir.
Q. Can you tell me now what is the percentage of expense to earnings. Percentage on freight expense to freight earnings in Missouri for the year 1904, on all freight, intra-state and inter-state?
A. I could figure it out in a moment.
Q. And exclude from that computation taxes, rentals and interest?
Mr. HAGERMAN: While you are making it up, make it up to show those items.
3309 A. Do you want it for each of the years?
Q. Yes, 1904 and 1905.
3310 Q. What was your average expense per mile of road of your company in Missouri in 1904, for maintenance of way and structures?
A. $1,085.63.
Q. What was it for 1905?
A. $1,058.37.
Q. Can you tell what it was for the roads in the Interstate Commerce Commission Group No. 8, in which the Missouri Pacific road is included?
A. $887 even.
Q. That is the last information you have upon the subject?
A. Yes, sir.
Q. What was your average expense per mile of road of your company in Missouri in 1904, for maintenance of equipment?
A. For the State of Missouri?
Q. Yes.
A. $1,228.39.
Q. What was it for 1905?
A. $1,179.68.
Q. What was it for the roads in Group 8?
A. $771.
Q. And that also is for 1904, those last figures?
A. Yes.
Mr. HAGERMAN: Where did the figures from Group 8 come from?
A. From the 17th Annual Report of the Interstate Commerce Commission.
3311 This is objected to as incompetent, irrelevant and immaterial, and not the best evidence.
The objection is overruled.

Mr. LADD:

Q. Did you say yesterday that the company's method of finding the cost of doing the local business had been on the earnings basis?
A. No, sir.

Mr. HAGERMAN: There has not been any occasion to figure out earnings on the local basis until this case arose, has there?

A. No, sir.

The further cross-examination of this witness is deferred, subject to be resumed by order.

3312 HUBERT ROTH, a witness of lawful age, being duly produced, sworn and examined, on the part of the Complainant, testified as follows:

Direct examination.

By Mr. FRANK HAGERMAN:

Q. What is your name?
A. Hubert Roth.
Q. What is your business?
A. I am an employé of the Statistical Department.
Q. For the Missouri Pacific Railroad?
A. Yes, sir.
Q. And how long have you been in that employment?
A. Seven years.
Q. Here in St. Louis?
A. Here in St. Louis.
Q. Who is the head of the Statistical Department?
A. Mr. Nugent.
Q. And what experience in railroad accounting have you had before?
A. None whatsoever.
Q. Had you been an accountant before in your life?
A. Yes, sir.
Q. Doing what kind of work?
A. General mercantile business and shipping business.
Q. Did you assist Mr. Johnson in the preparation of this Exhibit 5 and the ascertainment of the earnings and expenses of the
3313 freight traffic in Missouri, and if so what portion of the work did you take charge of and supervise and prepare?
A. I had charge of the preparation of the statement of earnings only.
Q. You dealt only with the earnings?
A. Yes, sir.
Q. Turn to Page 3 on this Exhibit. I see for these two years you have sub-divided the earnings as between local and inter-state traffic?
A. Yes, sir.
Q. How did you arrive at the local earnings?
A. We pursued two methods in arriving at those figures. From the month of January, 1904, to August, 1904, inclusive, we abstracted data for those figures direct from the original way-bills; or, rather, from copies of the original way-bills filed in the Auditor's office.

The MASTER:

Q. That was for what period?
A. From January to August inclusive.

Q. What year?
A. 1904.
Mr. HAGERMAN: Proceed.
A. From September, 1904, to the end of the year 1905, we took the figures from our freight journals.
Q. Why did you do it one way one time and the other way the other time?
A. Unfortunately we commenced this work in the year 1905, and we intended to use a certain report which we receive
3314 from our agent at all local transfer points in connection with the figures we abstracted from our journals. But when we came down to 1904, we found that the first seven months of those reports were not complete, and we could not use them. We therefore had to go back to our way-bills and get the information required.
Q. From that date on the work was so complete that you could go on in the way of which you speak?
A. Yes, sir.
Q. The first item in the first column on Page 3, representing the total receipts from local freight, was compiled in the way you state and represents the actual earnings from freight: That is strictly State business?
A. You are now talking of total earnings?
Q. I am going to talk about them incidentally; local freight earnings?
A. I beg your pardon.
Q. At the head of the next column is the amount in 1904, and followed out afterwards for 1905, of the inter-state earnings in the State?
A. Yes, sir.
Q. And how did you arrive at that? I presume you arrived at it by the examination of similar books and papers, but the particular point I am getting at is how did you allot to Missouri a certain proportion of the inter-state earnings?
A. In order to make that clear, we first of all arrived at our total figures, which were abstracted from certain records we have in the office. These records give strictly the Missouri Pacific
3315 proportion of all revenues, whether it is for freight hauled over their own system, or partly over their own and partly over foreign roads. Then we divide that on a track mileage basis
Q. So as to allot to Missouri its proportion?
A. Yes, sir.
Q. You have a line here marked here "received from service incidental to freight traffic" and certain figures?
A. Yes, sir.
Q. What does that represent?
A. That represents the amounts collected for switching, storage and demurrage.
Q. And how did you assign that in the division? How did you ascertain when it was local and when it was inter-state?
A. We were unfortunately unable to ascertain exactly what pro-

portion of that business was local. But from our general knowledge of our business we came to the conclusion that at least nine-tenths of that business would be on inter-state freight. So we allotted ten per cent to the local business and 90 per cent to the inter-state business.

Q. You think that was fair, from your knowledge of the business?

A. Yes, sir, absolutely fair.

Q. And that was about the only way you could get at it, by some arbitrary division?

A. Yes, sir, that was the only way.

Q. The statement which you thus prepared is correct, is it?

3316 A. It is substantially correct.

Q. And when you got through with it your work and Mr. Johnson's was combined, so as to make the complete statement represented by Exhibit 5?

A. Yes, sir.

Q. Turn to the first page of that "earnings on commodities affected by the old rates, for 1904 and 1905: "What does that represent?

A. That represents our actual earnings on commodities affected by the Act of 1905, as drawn off from our copies of way-bills in the Auditor's office.

Q. That is to say, that line represents what you earned in those years on the commodities dealt with by that Act?

A. Yes, sir.

Q. The next line reading "earnings upon the same commodities under the new law $146,241.91 for 1904, and $152,800 for 1905": What does that represent?

A. That represents what we think we could have earned if the Act of 1905 had been in force in the years 1904 and 1905.

Q. By "what you could have earned", what do you mean?

A. That is to say, we have not used the actual tariff in some instances.

Q. The exact number of miles?

A. That is what I mean.

Q. How did you deal with it in the case Mr. Stith referred to, and that is what you referred to, I suppose, that is, where you are required by competition of the short line road to maintain a tariff only

3317 on the short line basis?

A. For instance between St. Louis and Kansas City we use the rate for 200 miles.

Q. Because that is the governing rate?

A. Yes, sir.

Q. Any other illustration of it?

A. Between St. Louis and Sedalia we use I think it is 150 mile rate.

Q. As against the actual mileage of what?

A. 188 miles.

Q. Those are illustrations to illustrate the idea?

A. Yes, sir.

Q. The 1904 business carried under this new act, in the methods

where railroad companies meet the short haul road's rate would have lost that amount of money?

A. Yes, sir.

Q. The decrease is arbitrarily represented in the third column for 1904, and $74,699.68 for 1905?

A. Yes, sir.

Q. And the percentage of decrease was what?

A. 31.23 per cent for 1904, and 32.83 per cent for 1905.

Q. Have you the detail of that statement?

A. In what respect?

Q. Showing the items upon which the charge was made?

A. Yes, sir.

Q. And in connection with that the same thing that was asked for in the Burlington case, what would have been received
3318 had you charged upon certain items referred to by Mr. Stith, or his testimony bearing upon that subject, that where the rates that were charged in some instances were less than the maximum allowed by this Act?

A. Yes, sir, I have prepared a statement of that kind but it is not quite ready for filing.

Q. Will you, as I speak of it now, file it as Exhibit 8, handing a copy to the Master and also one to the expert for the State?

Exhibit 8 referred to is in the words and figures following, to-wit:

3319 The MASTER:

Q. As I understand it, in arriving at the figures on the second line of Page 1 of this Exhibit 5, in ascertaining the amount of earnings which would have been derived from the carriage of the commodities represented in this Act of 1905, you did not as a matter of fact apply the rates to all of those commodities actually carried; but you modified to the extent that you allowed what it would have been influenced, or the amount it would have been influenced, by the application of the short mileage distance on through freight?

A. Yes, sir.

Q. From river to river, as I understand?

A. Yes, sir.

Q. But it applies to actual mileages in all other instances than those?

A. Yes, sir.

Mr. HAGERMAN:

Q. Now turn to Page 2 of this Exhibit 5: You heard the explanation made by Mr. Johnson as to the addition of the bridge-tolls, the transfer of refrigerator cars, and that that was deducted from the earnings?

A. Yes, sir.

Q. Was that explicit enough, and do you agree with it, or do you want to add anything to it in the way of explanation?

A. I do not know really whether that would come under the matter of expense or the matter of earnings.

Q. You are familiar with the subject?

A. Yes, sir.

Q. And you agree with what he said upon that subject?

3320 A. Entirely. Of course that does not apply to the refrigerator cars.

Q. What about the refrigerator cars?

A. Those charges were never charged to the expense account.

Q. Never had been?

A. No, sir, they were always deducted from earnings.

Q. But at one time the bridge and tolls had gone in as expenses?

A. Yes, sir.

Mr. HAGERMAN: That is all I wish to ask Mr. Roth now.

The cross-examination of this witness is deferred for the same reasons given above in the case of the witness Johnson.

3321 W. B. DODDRIDGE, a witness of lawful age, being duly produced, sworn and examined, on the part of the Complainant, testified as follows:

Direct examination.

By Mr. FRANK HAGERMAN:

Q. Your name is what?

A. W. B. Doddridge.

Q. You reside where?

A. Kansas City, Missouri.

Q. What has your experience as a railroad operator been?

A. As a railroad operator do you mean, or my whole experience?

Q. Your whole railroad experience.

A. From the year 1866 to 1900 continuously, with two years' exception, I was engaged in the railroad business; as Telegraph Operator, Station Agent, Division Superintendent, on the Union Pacific Railroad, and General Superintendent of the western division of the Union Pacific Railroad Company until 1884. The next two years I was Manager of a smelting company in Montana. Then I was Superintendent of the Missouri Pacific Railroad between Kansas City and Omaha. And later on my jurisdiction was extended to cover the central branch.

Q. That was extending from where?

A. Extending from Atchison across the northern part of the State of Kansas, west. From 1889 until 1893, I was

3322 General Manager of the St. Louis and Southwestern Railroad Company.

Q. That is the Cotton Belt?

A. Known as the Cotton Belt.

Q. Extending from where to where?

A. Extending from Birds Point, Missouri, through the States of Missouri and Arkansas and covering a great part of the State of Texas.

Q. How close to St. Louis is Birds Point?

A. About 150 Miles.

Q. And what if any instance has the Southwestern into St. Louis, or connection?

A. The St. Louis and Southwestern connected with the St. Louis, Iron Mountain & Southern Railway in St. Louis. The managing office of the Cotton Belt Railroad was in St. Louis.

Q. You were with that road how long?

A. Until 1893. From that time until the year 1900 I was General Manager of the Missouri Pacific System.

Q. What was the nature of the connection with the road as General Manager, in a general way?

A. As General Manager I had charge of the maintenance and the operation of the line.

Q. All the lines of the Missouri Pacific?

A. All the lines of the Missouri Pacific.

Q. Did that include the Iron Mountain?

A. Including the Iron Mountain.

Q. About how many miles of railroad of the Missouri Pacific were there in Missouri, do you recall?

3323 A. To be exact, taking it from their report, there was 974 miles.

Q. That is a main track is it?

A. Main line and branches.

Q. I wish you would give a little bit in detail a description of what we call the main line extending from St. Louis to Kansas City.

A. The Missouri Pacific having its initial point at St. Louis, is located upon the south side of the Missouri river, running in a general westerly direction from St. Louis to Kansas City, upon the western border of the State.

The main lines of the Missouri Pacific consist of a double track road from St. Louis to Kirkwood——

Q. About how many miles is that?

A. About 16 miles. From Kirkwood to Jefferson City 125 miles from St. Louis it is a single track line.

Q. Extending for how much of that portion of the line along the bank of the Missouri river?

A. About 75 to 80 miles.

Q. It makes it more difficult to maintain than if upon the high ground above the river?

A. It has been a very expensive piece of railroad to maintain and correct the original engineering difficulties in constructing the lines.

Q. Wherein was the cause or element for making it extra expensive for that line?

A. The location of the road being along the Missouri River, under the bluffs, occasionally crossing the bottoms of
3324 the Missouri River from one point to another, the nature of the stream, shifting its channel, has made it necessary for the Missouri Pacific Railroad Company in the course of years to fortify its road-bed and in some cases change it almost continuously

across these bottoms, with very expensive work in the way of abutments and ripraping.

Q. The Missouri River is a very notable stream for its sudden changes, and shifting from one side to the other?

A. It certainly is one of the worst in the country.

Q. And frequent floods?

A. Frequent floods, causing the damages of which I speak.

Q. You have gotten as far with this main line as Jefferson City: Are there any branch lines that should be mentioned in the description of this property, from the time you leave St. Louis until you get to Jefferson City?

A. Entering the City of St. Louis there is a branch line leading from Kirkwood to Carondelet, connecting the Missouri Pacific with the Iron Mountain. The object of this branch line in the transportation of freight is to avoid bringing the St. Louis freight through these St. Louis terminals.

Q. Where the expense of handling is much more?

A. Yes, sir.

Q. The object of that line was, in the interchange of business between these two great systems, the Iron Mountain and the Missouri Pacific, there was a sort of short cut there for the busi-
3325 ness destined from the south to the west or the west to the south?

A. That is correct.

Q. And then there is this other line running out from St. Louis to the lake?

A. There is a line from a point six miles west of St. Louis in a northwesterly direction to Creve Coeur Lake on the Missouri river.

Q. The nature of the business done, mainly, on that particular branch is what, Mr. Doddridge?

A. The business on that branch is strictly local, the road having no business connection at its west end. The road was built, I presume, in the first place with a view of striking the valley of the Missouri River.

Q. But in the main that is what you would call a local or State business?

A. Strictly a local line.

Q. When you get up to Jefferson City with your main line, is there any branch that comes in there?

A. There is a branch known as the Warsaw Branch running from Jefferson City southwestwardly.

Q. Bagnell that is. Warsaw is further up.

A. Yes, sir, I am wrong about that. It is called the Bagnell Branch, to a point known as Bagnell near the Osage River.

Q. What is the character of the business, in the main, that is done upon that branch?

A. The business is of a local character and very light and
3326 perhaps this line produces quite a large quantity of crossties.

The MASTER:

Q. What is the length of the line from Jefferson City to Bagnell?
A. I don't recall exactly but I think about forty miles.

Mr. HAGERMAN:

Q. Going on from Jefferson City with the main line?
A. From Jefferson City west the main line of the Missouri River originally left the valley of the Missouri River at that point and was constructed westwardly through Sedalia and Warrensburg to Independence.
Q. Through Pleasant Hill?
A. Yes, sir, through Pleasant Hill to Independence. Thence from that point, again in the valley of the Missouri River, to Kansas City.
Q. Is there a main line with branches off toward Pleasant Hill and goes off toward the south?
A. The main line branches off at Pleasant Hill and runs in almost a due southerly direction practically to the State line of Missouri on the south.
Q. That is what you call your Joplin line?
A. That is what is known as the Joplin line.
Q. And what character of road is that and what character of country does it pass through?
A. It passes through a fairly good agricultural country. It is what is known among engineers as rather a high grade line, reaching at its southern end what is known as the Joplin zinc and lead district of Jasper County, Missouri. In connection with this
3327 line there are several branch lines leading to the west out of the State of Missouri and into the State of Kansas. One of the junction points is Nevada. Another at Roch Hill. And when you reach Joplin the road is spread in several directions for the purpose of taking care of the lead and zinc industry, in that section, which industry I will say it and its dependent interests furnish a very large part of the bus-ness for this branch.
Q. You have a line that extends along the Missouri River, which is called your low grade or water line: What is that?
A. Jefferson City, where the original main line of the Missouri Pacific left the Missouri Valley, a line has been constructed following the river to the west through Boonville, Myrick Junction, a point near Lexington, Missouri, on to a point where this line connects with the Santa Fe Railroad not many miles from Independence, Missouri; thence, using the tracks of the Santa Fe, to a connection with the original main line of the Missouri Pacific, where it comes down again on to the Missouri Valley; thence to Kansas City.
Q. That road for practically all the distance follows the bottoms?
A. It follows the bottoms of the Missouri River the entire distance. I will state here that two portions of this line I have never personally been over.
Q. What portions are those?
A. That part of it from Jefferson City to Boonville and that

part from the junction with the Santa Fe to where it again connects with the original main line of the Missouri Pacific.

3328 Q. Was any of that road constructed under your supervision?

A. No, sir. When I was in charge of the Missouri Pacific that line had been built as far east as Boonville. The link between Boonville and Jefferson City is of recent construction.

Q. Since you left Missouri?

A. Yes, sir. And also the loop at Independence has been made with a view of connecting up the line.

Q. Take the main lines of the Missouri Pacific: How are they considered as trunk lines and how are they situated as trunk lines?

A. The main lines from St. Louis to Kansas City on the Missouri are essentially, in my judgment, trunk lines and serve for the carriage of a very large volume of through traffic, moving to what is known as the St. Louis gateway and leaving the State at the Missouri River gate-way known from the traffic man's standpoint as Kansas City. The road which I have just described, following the Missouri River westward from Jefferson City is known among railroad men as a low grade line.

Q. What is the result of this situation as to the amount of carriage of traffic and the importance of the Missouri Pacific in the carrying of the traffic of the State?

A. The Missouri Pacific having a low grade line from St. Louis to Kansas City necessarily is in a position to carry an enormous freight tonnage at the lowest practicable cost.

3329 Q. Are you familiar with the cost of the construction of railroad properties?

A. To some extent, yes, sir.

Q. And you are familiar with the exceptions you have stated, with this Missouri Pacific property in all its phases, and with the entire situation?

A. Yes, sir, in a general sense I am familiar with it.

Q. I presume that the terminals are of value and very costly in these large cities.

A. The terminals in St. Louis and Kansas City have grown to be very valuable on account of the position, location and their extent.

Q. Have you an idea in dollars and cents what it would cost to secure those terminals today, or terminals as good, in those cities?

The MASTER:

Q. You mean what it would cost to equip them or reconstruct them as they are now?

Mr. HAGERMAN: Practically construct them and put them in there in as good condition as they are now.

A. Without making an engineering examination, taking the measurements and inventory of the improvements as they stand, I hardly think it is possible to estimate the value of these terminals in any way that would be satisfactory.

Q. Is that because they are something or ordinary value or something of extraordinary value?

A. It is because they are of extraordinary value.

Q. And how expensive are they in this city?

A. When I left the Missouri Pacific Railroad Company
3330 all of the terminals in the city consisted of 175 miles of tracks. I do not recall or remember the division as between the St. Louis, Iron Mountain & Southern and the Missouri Pacific, but they were apportioned naturally to the business the two roads handled. The track mileage in the terminals at Kansas City, as I recall it, amounted to about 35 track miles. I will say, however, that the terminals at Kansas City are much greater today than then.

Q. Pause for a moment on that Kansas City situation. They have one yard that is called "State line yard": That is their main yard there, isn't it?

A. That is the local yard, where the principal part of the business of Kansas City is transacted.

Q. How does the State line strike that yard? I wish you would explain that to the Master a little bit.

A. The State line crosses the State line yard at a slight angle from a right angle, my recollection is that ½ practically of the State line yard at Kansas City is in the State of Kansas and the other half is in the State of Missouri.

Q. And the station is upon what side?

A. The station depot is upon the Missouri side of the line.

Q. About how many tracks are there in that yard?

A. I can only guess at that. There are probably forty or fifty parallel tracks.

Q. And you say the State line crosses right across that?

A. Not exactly at right angles but nearly so.

Q. Leaving part of those tracks upon the Kansas side
3331 and part upon the Missouri side?

A. The working or western ends of those tracks are in the State of Kansas. The eastern ends are all in the State of Missouri.

The MASTER:

Q. The State line cutting them at right angles practically?

A. Yes, sir, nearly right angles. There is a slight deflection.

Mr. HAGERMAN:

Q. There are terminal yards of the Missouri Pacific Railroad at Kansas City called the East bottoms yard: What are they?

A. The East bottoms yards are located about three miles, as near as I could judge, east of the State line yards, and they are expensive, large yards, newly constructed within the past two years. And they also have at that point a large round house and without specific knowledge of the fact, I understand that the freight trains arriving at Kansas City terminate at that yard and are there transferred to the State line yard or to connecting lines by switching engines and switching crews.

Q. At this State line yard you say they have a large depot or warehouse?

A. Yes, sir.

Q. How is it as to that yard being practically used indiscriminately for business going to Kansas City, Kansas, and Kansas City, Missouri; whether it is practically one terminal for the two places?

A. I will describe the condition there so as to make
3332 it clear.

Q. I wish you would, you are more familiar with it than anyone else.

A. They have a freight passenger depot in the State of Kansas at which the local business of the town of Kansas City, Kansas, is or can be handled. That depot is about two miles I should say from the State line, within the State of Kansas. The depot at the State line probably does a pretty large percentage of the local business, however, of Kansas City, Kansas. The location there being connected by the viaducts crossing the Kaw River.

Q. As a matter of fact where the State line runs there is between Kansas City, Kansas, and Kansas City, Missouri, simply an imaginary line in the center of a business street?

A. An imaginary line in the center of a business street called, I believe, "State line street." I will say in connection with that, that part of the Kansas City, Kansas line lies between this street and the Kaw River on the east side of the Kaw River. Of course naturally the business of Kansas City, Kansas, that is tributary to that part of Kansas City, Kansas, does its business at the Missouri Pacific station at the State line.

Q. Taking that description as you describe it, and from your knowledge of railroading generally, would it be practicable to handle that local situation there as between those cities, with the Missouri Pacific properties as they are, except as the Missouri Pacific Railroad does it, practically as one station?

3333 A. They could not do it, it would not be necessary to do it otherwise.

Q. I infer from what Mr. Johnson said that the system of the Missouri Pacific Railroad Company in all these matters has been to practically treat it in its expenses as a Kansas City, Missouri, station, not dividing it as between Kansas City, Kansas, and Kansas City, Missouri: What would you say as to the practicability of dividing it upon the basis suggested by Mr. Ladd? I infer it is his suggestion because he asked Mr. Johnson to prepare a statement showing the mileage in Kansas as compared with the mileage in Missouri. How would you, if the matter had been called to your attention, as to the necessity of the division of those expenses, have dealt with the situation, and give the reasons for it?

A. I don't know that I ever had the question presented to me for consideration exactly in that light.

Q. I will assume from what has been said by some of the witnesses, and probably will be conceded by all, that this is the first time the question has ever arisen as to the necessity of considering the proportion of expenses as between the two States?

A. While I was connected with the Missouri Pacific Railroad Company there was never any necessity for keeping our accounts as between States separate, and it is a very difficult matter to do that. That is to say, to do it except upon some arbitrary basis or upon someone else's opinion as to what it ought to be.

3334 Q. How do you think it ought to be dealt with. Upon a basis of opinion or a basis of mileage?

A. There is no other way you can get at it except by some arbitrary method. The great bulk of the business of Kansas City, Missouri, belongs to Kansas City, Missouri. If I was going to make a division of the freight expenses I should do it upon the percentages arrived at either upon the basis of the wheelage or the tonnage, dividing the expenses by some measurement in proportion to the business actually having destination in one or the other side of the line.

Q. That is to say, if during these years you had had in mind the necessity of dividing that, you would have divided it in accordance with the use, in some way?

A. Yes, sir, by some method of percentages.

Q. That was not done. Why do you think, if at all, dividing it upon a track mileage basis would not be fair?

A. By track mileage basis you mean the mileage that is within the city limits of these two cities, or the mileage of the railroad?

Q. I haven't any idea of what is exactly in the mind of counsel on the other side but they have called for that statement. They want to know how many miles of terminal trackage is in Kansas and in Missouri, so as to apportion those expenses upon the basis of the mileage in each State.

If in your judgment that is not fair, why is it not fair?

A. I do not think that is a fair way to apportion the expenses, for the reason that it would not be an accurate measurement of

3335 the work performed. The measurement of the work is the business handled, the tons of cars handled, and the destination of the business that creates the expenses.

Now I will go a little further and say that in constructing railroad yards and tracks, the managers naturally look for a location upon which to place the tracks where the cost is the least. Now there might be a situation in Kansas that would cause the construction of a great many tracks, or a great many feet of track, upon which to handle business that belongs strictly to the Missouri side of the line. And in fact that is the situation at Kansas City to some extent. We built, some fifteen years ago, quite a large yard, a "holding yard" we will call it, on the west side of the Kaw River.

Q. Known as the "cypress yard"?

A. Yes, sir, known as the cypress yard. The reason why that place was selected for that purpose was because the land was cheap.

Q. Although one of the main purposes was to serve Kansas City, Missouri?

A. The main purpose was to provide a holding yard to take care of surplus cars, rolling stock, etc. This question of building what

you referred to as the east bottoms yard, was under consideration at that time, and for a good many years before. But authority to purchase the necessary land in the east bottoms was put off from one year to another on account of the higher prices of the land.

As I remember it, we acquired this land on the west side of the Kaw River and built a good many tracks. I did not
3336 complete that yard, however, while I had charge of the Missouri Pacific Railroad. I built part of it myself, had charge of the construction of it, but since then I think they have gone on and added to it so they have quite a large mileage of track upon that side. But some two or three years ago they started the construction of the east bottoms yard and I believe it is still in progress.

Q. Kansas City, Missouri, is a great commercial center, practically, between points on the Mississippi River and the Rocky Mountains?

A. I think it is going to be the Chicago of the southwest.

Q. Take it with all your experience and everything you have seen about it and all you know about the Missouri Pacific, its business and its connection at Kansas City, what would be a fair proportion of the terminal expenses to charge to Kansas and what to Missouri?

A. The question is, what in my judgment is a fair division should be made as between the two?

Q. Yes.

The MASTER: That is, Mr. Hagerman, of all of the freight business done in any of these yards of the Missouri Pacific Railroad Company at Kansas City, what percentum should be charged to the Missouri part and what to the Kansas part?

Mr. HAGERMAN: Yes, because part of the Kansas City business is accommodated at those points and it seems, according to the testimony of Mr. Johnson, it has never been divided.

3337 A. That question, off-hand, could only be replied to in a very rough sort of a way. Under no circumstances would I think more than 25 per cent should be allotted to the Kansas side of the case; and in making that statement I do it with a great deal of reluctance as I really do not know without making some kind of an investigation of the subject.

Q. I thought maybe you had given it some study and that would be your maximum figure.

A. Yes, sir, that would be the maximum under any circumstances.

Q. What would be your minimum?

A. Ten or fifteen per cent. I would say, that this question resolves itself into one of a practical nature. The State line passing through those terminals, the terminals being located exactly on the State line, there are a good many industries that are located just across the State line, where as I understand it, it has been decided by the Court the business is interstate, which makes it a peculiar station. The tracks that lead to some of these industries, such as side-tracks, that serve them, may start in Missouri and lead off across the line into the State of Kansas. While practically that

kind of business is not inter-state, as a matter of law it is considered interstate, I understand.

Mr. HAGERMAN:

Q. There is considerable doubt about that. The stockyards has been decided not to be interstate, I believe.

If you were going to make that difference in your estimate how much would that reduce it?

A. I think it would figure up probably ten or fifteen per
3338 cent that would strictly belong to the State of Kansas.

Q. Are there any other places in Missouri where there is this extraordinary value to terminals, outside of St. Louis and Kansas City?

A. Nothing of course in the State of Missouri that has any relative comparison, so far as values are concerned. Of course the cost of the terminals at points like Sedalia, Joplin, Nevada, etc. is considerable.

Q. But of course nothing in comparison with the great values in Kansas City and St. Louis?

A. Of course nothing in comparison with those freight values in Kansas City and St. Louis?

Q. How is it as to the railroad being well equipped or not?

A. At the time I left the Missouri Pacific Railroad its equipment, while it was fair as compared with other systems having similar business, I understand it has added very largely to it during the past six years, both to i-s cars and to its motive power. So I am told it is now very well supplied with both cars and engines.

Q. In estimating the value of this property what are some of the elements in your judgment that should be taken into consideration?

The MASTER:

Q. What property are you now referring to?

Mr. HAGERMAN: Take the Missouri Pacific property as a whole.

3339 A. The elements that enter into the value of a railroad, I am now referring to the value of reproduction, should be the accumulated costs of improvements in its physical properties reductions of grades, the consolidation or — of its embankment and cuttings, as well as new buildings, and the fact that it has now become after years of use a stable and a seasoned line.

In the case of the Missouri Pacific it has had expenses of an extraordinary character along the Missouri River, to maintain its road and to correct the engineering imperfections that naturally obtain in a road so located, and built at that time, something like fifty years ago.

Q. In addition to these terminals which the railroad company itself owns in this city, are their various other connections, such as warehouses, grain elevators and plants owned by private industries that are connected by tracks with your company, even by tracks that do not belong to you but belong to the industries themselves?

A. When a railroad is first constructed in these large cities, the

surrounding conditions at the terminals and at the important local stations, by adaptation cause the construction of all sorts of facilities necessary to the handling of transportation, such as in the case of warehouses, elevators, public streets, thoroughfares, etc., leading to its property. All of these facilities being necessary to handle the traffic. And it is the building of these things that creates the values of surrounding properties, not only to the property of the railroad itself but to the property adjacent to it.

3340 Q. Does the age of the road cut some figure in increasing its value, and if so why?

A. The older the road the more complete and perfect become these facilities. Large sums of money are invested by persons, private corporations, to secure the advantages that the terminals themselves give.

As I said before, it is these things that create the value.

Take it in the city of St. Louis, if the railroad terminals, the yards, did not exist or were suddenly withdrawn, these values upon which we would proceed to make an estimate of the value of the railroad itself, would get into demoralization; it would not have the value.

Q. Take this case: Suppose a railroad was to be reproduced absolutely new, how would that compare with a road like the Missouri Pacific here, with the trade built up and in the way of having its road connection and facilities, which would be the more valuable?

A. The old road would be worth at least double that of the new road.

Q. The sum and substance, then, of your idea about it, if you were getting at the real value of a property of this kind, would be whatever would be the result in the earnings capacity, would that be a fair way to estimate it?

A. My judgment is that is the only way to get at the real value of a railroad property.

Q. Take then the other feature of it so as to aid us in get-

3341 ting everything we can toward affording light to the Court. Assuming now the case from the standpoint of reproduction, where you say it would be worth only half of the old road, and you say you are not prepared, on account of the enormous amount invested in these terminals and the difficulty in getting into the City, to estimate on the value of the terminals. But taking the Missouri Pacific as you know it throughout the country, eliminating terminals and equipment, what would it cost to practically reproduce it today? How much a mile?

A. In my judgment it would be worth $40,000 a mile.

Q. Just as a reproducing proposition?

A. Yes, sir, and taking all the mileage into consideration, exclusive of these valuable terminals.

Q. And exclusive of its equipment?

A. Exclusive of its equipment. Of course in making that statement I am governed in it to a certain extent by having the valuation placed upon the lands in Missouri in the last census by the Government's Interstate Commerce Commission.

Q. What was that if you remember?

A. $40,000 a mile.

Q. Something has been said in this case as to the effect of this particular Act that we are dealing with, upon the transportation of livestock: What is the result in the practical operation of a railroad, as to the transportation of livestock, as to the kind of
3342 equipment that must be had for it, the care that must be taken of it, etc.? Whether that is something more than ordinarily expensive to deal with, from the railroad company's standpoint, and more dangerous to handle on account of liability to claim for damage, the necessity for stopping to feed, rest, etc.?

A. The transportation of livestock, according to my experience, is one of the most expensive kinds of business that the railroad company has to handle, and the reasons are very simple and obvious. In the first place it requires a car of a special kind to transport it. Specially built for that purpose. A car that is not often used for any other purpose except the transportation of stock.

Q. Does that result now in doing a good deal of empty hauling one way?

A. It results in making what transportation officials call a very large percentage of empty car mileage. I would say very nearly 100 per cent. Or, in other words, the haul is usually one way empty.

Q. That is to say, as a rule your livestock proposition means loaded mileage one way and empty mileage the other?

A. Yes, sir, empty tonnage the other.

Q. What about the requirements as to speed, etc.?

A. The livestock trains, where it is handled in special trains, usually require an accelerated schedule. Sometimes, well we will say a schedule of 20 miles an hour, means a speed of 25 to 35 miles an hour on the road. In order to make that speed with a livestock train it is necessary to carry a lighter than ordinary tonnage
3343 than the capacity of the locomotive calls for, in my judgment about 30 per cent.

The exactions of livestock shippers on account of delay or damage is more exacting than for the transportation of dead freight.

The cars must be at the loading point at a given time. The loading of the livestock involved extra expense in the matter of furnishing a locomotive and train crew at the local, or the yard man at the terminal, to load the stock.

Q. And yards at the stations to hold the stock while waiting for the trains?

A. Yards at stations to hold the stock while waiting for the trains, yes, sir, and to load the stock. The transporting company furnishes free transportation for one, two and sometimes more owners and attendants to take care of it.

The United States quarantine regulations require disinfecting of the cars to prevent the spread of contagious diseases. The cars as a rule have to be bedded. The old rule was to put a yard of sand or bedding in each car. I presume that is the practice today. The owner, after the car is delivered and unloaded, is returned usually free, on the passenger train, to the point of the origin of the shipment.

All these things create extra and additional expense.

Q. And also loss or damage?

A. Loss or damage in the event of a wreck is usually severe. In the event of delay to a large stock train, the failure to reach the market furnishes ground for a claim for damage.

The usual hour having arrived recess was here taken until
3344 two o'clock p. m.

After recess on Wednesday, January 16th, the following proceedings were had:

Direct examination of W. B. DODDRIDGE continued.

By Mr. HAGERMAN:

Q. Upon the Missouri Pacific Railway in Missouri, what character of freight traffic is carried, Mr. Doddridge?

A. The character of the traffic, the greater percentage of the traffic, is commodities and merchandise; I should say 75 per cent is of the commodity kind, such as products of the forest, agriculture, cement, lime and building material. The merchandise is mainly manufactured articles such as are used in this western country by the people.

Q. The lines of the Missouri Pacific through the counties where it runs in the main reaches all the thriving and prosperous towns and county seats of the various counties which it touches, doesn't it?

A. Yes, sir. The lines touch practically all of the county seats in the territory they traverse.

Q. All these county seats and towns range from 2,500, I presume, to towns like Joplin and Kansas City and St. Louis?

A. Yes, sir, they range from 2500 people to 25,000 or 30,000.

Q. The character of the traffic as distinguished between interstate and State traffic: The interstate I believe is divided we might say into three classes: The class that would start outside of the State and go clear through the State without stopping at all; next
3345 a class that would start outside of the State and stop within; and then practically the same thing, a class that would start within and land outside of the State somewhere. That is practically a fair illustration of the interstate business, isn't it?

A. Yes, sir.

Q. The State business, and by that I mean business originating and ending in the State, I presume is carried upon what has been termed by some, from an operating standpoint, through trains as well as way trains? Is that the proper distinction between the two or what would you call it from an operator's standpoint?

A. Do you refer to interstate?

Q. I was coming down now practically to the operations of your trains. I had by my question indicated the distinction between State and interstate business. But some of the witnesses speaking from an operating standpoint spoke of through and local trains. I do not want to confuse the idea of local trains as necessarily meaning State business. If there is any such distinction from an operating standpoint.

A. There are two classes of freight trains operated upon the Missouri Pacific Railroad.

Q. Those two general classes would be applicable, whether it was State or interstate business?

A. It would be applicable to any kind of freight business offered for transportation.

Q. Give that division.

3346 A. Through freight trains so called, as a rule carry business, either State or interstate or local, that is passing over a complete division of the road, or that is passing across the State.

Q. As, for instance, from St. Louis to Kansas City?

A. As for instance St. Louis to Kansas City. The plan of operating the trains in this way is of course for the purpose of economy in transportation. Each division or branch of the Missouri Pacific Road is also provided with a train that is called a way freight or local train. On some of the branch lines where there is no through business, the train service consists of a local train only.

Q. That is what you call your way freights?

A. Yes, sir, our way freight trains. In the operations of a railroad the operating officer takes no special account of the kind of freight carried on locals on its trains as distinguishing between these various classes, State or interstate. He takes into consideration the question of transportation and the delivery of the stuff in the most economical manner.

Q. So he deals with it practically from the broad standpoint of whether it is through or way freight?

A. He deals with it on that basis whether it is through or way or local freight. Of course there is some freight which moves between local points in the State that does not reach either terminal of the division.

Q. What are some of these branch roads where the entire business done on them is what you call way freight?

3347 A. I don't understand that.

Q. You said on some of the branches they did not run what you call through trains within the meaning of this grand division you make of the freight business?

A. The reason why they do not run through trains is because the volume of traffic is not sufficient to justify it, or in the case of a number of the branches they do not connect at the further end with any other line of transportation. Therefore, those lines are strictly local in their character. They serve the country through which they are built.

Q. Does it sometimes occur that upon what you call in this operating division of the business a through train, there may be interstate freight or State freight carried?

A. It does, provided the interstate freight is going beyond the end of the first division, where the engine or crew may be changed. Ordinarily, however, the interstate freight loaded at a gate-way like St. Louis is carried upon the same through train that is provided for that purpose; operating officials as a rule avoid moving freight on that class of train if they can.

Q. How is it as to the way freight train? Does it sometimes occur that interstate freight as well as State freight is carried upon the way trains?

A. Interstate freight or freight for delivery at local points is usually loaded on the way freight passing over that division and the freight distributed in connection with other State freight.

3348 Q. So that whether it did carry interstate freight or not, upon the way freight train, would depend upon whether the division over which it was passing crossed a State line, practically?

A. Yes, sir.

Q. What are the divisions of the Missouri Pacific Railroad Company in Missouri, if you recall? The through divisions I mean for the through car service?

A. The through trains on the Missouri Pacific main lines are operated on St. Louis to Jefferson City as the first division; from that point west they have two lines, the balance of the way to Kansas City, practically forming a double track line, although a good many miles apart. Now a certain number of through trains would be operated from Jefferson City to Kansas City taking the river routes.

Q. That is what we call the Boonville route?

A. Yes, sir, the Boonville routes. That is a low grade line. Those trains are only filled out with freight having destination at Kansas City or beyond. In that process, I will state here, the reason for that. That is strictly a low grade line of road. Where the train tonnage can be built up to a larger figure, four or five hundred tons of pay freight and possibly more. I don't know as to that.

The southern line by way of Sedalia is as compared to the river line, a high grade line, where the train costs are much higher per ton. Hence that line would naturally carry freight having destina-

3349 tion at such points as Sedalia or points on the branch lines south. Or take freight left over that could not be handled by the trains on the river lines that day, to fill out the trains to their full capacity, between Jefferson City and Kansas City. As I understand it that is the present method of operation and the correct method.

Q. That deals with the lines between Kansas City and Jefferson City. Do your observations cover all that?

A. Those are the lines between Kansas City and St. Louis.

The MASTER:

Q. Is there no divisional point between Jefferson City and Kansas City and either of the two lines?

A. Yes, sir, there is a divisional point at Sedalia, between Jefferson City and Kansas City.

Mr. HAGERMAN:

Q. Is that a divisional point dealing with traffic between St. Louis and Kansas City or does it meet the requirement of some other line?

A. For convenience of operation, I will state, that some of the through trains that run from St. Louis that go via Sedalia, run from

St. Louis to Sedalia as through trains and make Sedalia as a divisional point.

Q. Let me see if I get that plain: While Jefferson City is a divisional point also as to two through trains from St. Louis to Kansas City, on this high grade line, there are certain trains that run from St. Louis to Sedalia and make that through train?

A. Yes, sir.

Q. Running from Sedalia to Kansas City there is another division. The distance from St. Louis to Sedalia is 188 miles, which makes a long division for a freight division. The distance
3350 to Jefferson City is 125 miles, which is comparatively a short division. But in order to balance the traffic and operate these two divisions, and their through service, with economy, and on account of the diversified character of the freight, the junction lines and side lines, and the intermediate points, the line is operated in that way.

Q. When you come to deal with your Joplin line, what divisions have you?

A. The first division point south of Pleasant Hill is Nevada.

Q. Does the division extend from Pleasant Hill to Nevada?

A. Some of the through train service on that division has its terminal at Kansas City, runs over the main line from Kansas City from Pleasant Hill to Nevada. Then from Nevada to Joplin would be another division.

Q. The St. Louis end of it that is reaching Joplin, how are the divisions made up?

A. There is no through service, that I am aware of, between St. Louis and Joplin, except by using Pleasant Hill as a transfer or junction point.

Q. Starting from Kansas City, what divisions are there running out into Kansas? Where do you strike a division? Or from any other points along the line. I do not care to follow those divisions out to any extent.

A. From Kansas City south the first divisional point is Ossawatamie, Kansas, a distance of about 60 miles.

3351 Q. Those lines run directly from Kansas City down through Jackson County out through Johnson County and on out through Ossawatamie?

A. Yes, sir.

Q. Take some other line?

A. Then north from Kansas City the Omaha line, the first divisional point would be Atchison, which is the junction with the central branch division.

Q. The Missouri Pacific practically forks at Atchison, the northernmost division going west and the northern division going north?

A. Yes, sir. That is, there is another line reaching out from Kansas City called the Kansas City and Northwestern Road, that runs to, I think, Beatrice, Nebraska.

Q. That is the road that runs up through Holton and Oskaloosa?

A. Yes, sir.

Q. Does that extend out from the southern line from Joplin out into Kansas?

A. Yes, sir. From Nevada the line forks. They have a branch bearing to the southwest going through Pittsburg and on down toward Coffeyville, Kansas; and there is still another one that goes to Fort Scott, Kansas.

To tell you the truth some of those junction points and divisions I have forgotten the exact location.

Q. Will you explain to the Master the difference between what is called carload lots and less than carload lots in railroad parlance?

3352 A. Carload lots of freight are cars that usually contain one class of freight of heavy tonnage, such as flour, grain, cattle, etc., usually handled by the shipper, consignor and consignee, at both ends of the line.

Mr. LADD:

Q. May I ask a question?

Mr. HAGERMAN: Yes, sir.

Mr. LADD:

Q. Are what you call carload lots usually intended for one consignee?

A. Yes, sir, usually intended for one consignee.

Mr. HAGERMAN:

Q. Although sometimes when cars are filled by more than one, and divided among themselves?

A. Yes, sir.

Q. But usually what you mean is one consignee?

A. So far as the railroad company is concerned, it is one consignee.

Then there are carloads of wagons, agricultural implements, sand, hay, stone, etc.

Q. And merchandise sometimes?

A. I was coming to that.

Now, in merchandise shipments, sometimes it is shipped in carloads, like carloads of soap, candy, and manufactured articles that are shipped in large quantities. Miscellaneous merchandise, such as dry goods, boots and shoes, groceries, are not usually shipped in carload lots.

In the transaction of the local business of an agricultural country, the bulk of the supplies that are used for that country are shipped in broken or less than carload lots. For the reason that

3353 there is not generally enough merchandise of a single class or for a single point, to make up a carload.

Q. That is, the orders for merchandise do not equal a carload?

A. Yes, sir, that is it.

Q. What about the capacity of cars on the Missouri Pacific road now as compared with what it was years ago? What changes have

been made in that regard, going even to the extent of discarding the small equipment, and the reasons for it?

A. 25 years ago almost universally the capacity of a car was 10 tons. The weight of the car as I recollect it, averaged about 9 tons. The standard of steel rails, railroad track rails, at that time was about 56 pounds to the yard.

The weight of the locomotives ran from, say, 30 to 50 tons. Ten years ago a 50 ton locomotive was considered a pretty good sized freight engine. Since then the weight of the modern locomotive in use on the Missouri Pacific, I am told, in general service on the main lines, is 101 tons.

The capacity of the freight cars has grown generally to 30 tons with a tendency to 40 tons. There are some freight cars in use that have a capacity of 50 tons, but not a great many. The old 10 ton cars have passed out of use.

Of course a good many of the lighter types of locomotives have passed out of use, although there are some still in service. For the reason that it is practicable on some of the lighter branch lines, where traffic is light, to still utilize the light power in operating those lines economically.

3354 Q. I presume as an operator you have become quite familiar with the elements that enter into the cost of carrying this freight?

A. Yes, sir.

Q. I want to lead up to the inquiry as to your opinion as to the difference in the cost of handling State business or how much more it would cost to handle State business than interstate. I will first ask you, without fixing the amount of percentage, whether it does cost more to do the State than the interstate business?

A. It undoubtedly costs more to do—yes, I will say both classes of business cost more than it does to transport the through business.

Q. Something was said, I will ask you at this time, although it is probably out of order for us to go into that question—if you are undertaking to find the cost of transporting traffic of this kind, is it any safe rule or guide or criterion to go by, to undertake to estimate that cost upon a ton per mile basis?

A. In answering that question I will refer to an example which I have made relating to it. In reply I will say that without taking into account the space occupied, or the bulk of the freight, the cost per ton mile of the transportation of miscellaneous freight on a railroad only deals with the question in a very general sense, leaving out some of the principal elements. Therefore, my answer would be as follows:

3355 The use of the ton mile as a basis of calculation for ascertaining accurately the cost of transportation, without taking into consideration other factors, is misleading and of no value for that purpose. I am aware it is used by the Interstate Commerce Commission and railroad companies for statistical purposes and purposes of comparison, as it is perhaps the most easy and simple method of obtaining average results of cost, in a very general sense.

To arrive at an actual determination of the cost of transportation of freight tonnage per mile, the bulk of the freight moved must be considered as well as its weight, as upon the bulk depends the amount of dead weight of cars that must be used to transport a given weight.

To illustrate further, suppose you had a train of 10 loaded cars to move a distance of 100 miles, and the cost of moving the train was $50.00. The train was loaded with iron, each car carrying 30 tons, each car weighing 16 tons, and the engine and tender weighing 50 tons, the total tonnage would be 510, which we will assume to be the capacity of the locomotive. The cost of moving would be 16.66 cents per ton.

Now, assume that we make up another train of mixed freight of the same total weight, 510 tons, use the same engine and run the same distance at the same aggregate cost, as follows: 6 cars of merchandise 6 tons each, 36 tons, weight of cars 96 tons, two cars of wagons 20 tons each 40 tons, weight of cars 32 tons, 2 cars of salt 15 tons each 30 tons, weight of car- 32 tons, 1 car of flour 12 tons each 12 tons, weight of car 16 tons, 1 car of grain 20 tons 20 tons, weight of car 16 tons.

3356 Another car of grain 30 tons, weight of car 16 tons, 1 car of machinery 10 tons, 10 tons, weight of car 16 tons, another car of machinery 15 tons, 15 tons, weight of car 16 tons one car of household goods 10 tons, 10 tons, weight of car 16 tons.

The total number of cars would be 16, the total number of tons of freight would be 203. The total weight of cars would be 256 tons.

The cost per ton would be 24.6 cents.

In the first instance we use 10 cars valued at $800 each, a total investment of $8000. In the second case we use 16 cars valued at $800 each, a total investment of $12,000. The gross tonnage of these two trains is practically the same. The cost of movement of the mixed freight is 50 per cent greater than the former. We use 60 per cent more cars to handle it.

These kind of examples for the movement of freight could be made up indefinitely and would work out more or less practically the same way.

The road cost of transportation depends upon the gross tons to be moved, which includes the weight of engines, the weight of all the cars, including the caboose, plus the weight of the freight carried.

Another factor entering into this calculation is the rate of speed used in moving the train. It above the normal, say 15 miles per hour, the load of the engine must be lightened, which works toward an increase of cost. The same results obtained when the temperature falls below 60 degrees, at which all mechanical en-

3357 gineering calculations are based.

Q. What do you mean by that?

A. To maintain the speed you would have to lighten the speed of the engine as the friction increases with the reduction in temperature, as much in very cold climates as 50 per cent, sometimes.

It has been my experience in railroad operation to have the expense per ton per mile shifting under apparently the same conditions. Investigation would almost invariably develop the fact that for a local reason, the character of the business moving changes the result, under identically the same character of proposition of operation, driving toward giving results of operation.

For those reasons the ton mile cost is not used only in its most general sense, by practical railroad operators, as the test of economical operation.

Q. Another method that is used, not tons per mile, but revenue per mile. Spread out between that and ton per mile.

A. The revenue per ton, as I understand it, is used for the purpose of ascertaining the average amount of money received from each ton of freight carried, without reference to the distance.

Q. Still another way that these statisticians have of preserving records and statistics is to deal with the train mile, cost or earnings, for instance, as so much per train mile: That is a familiar term in railroad parlance, isn't it?

A. Yes, sir.

Q. What does that mean?

3358 A. That means the revenues divided by the miles run by all the trains of a certain class as distinguished between freight and passenger. And it indicates mainly the earning power of a railroad. If a railroad is of a high grade character, or its power is inferior and it does not pull the trains it ought to, the earnings per train mile go down. It is also used as a comparative condition by operating officers to know the state of their own business.

Q. Still another term used frequently in railroad circles and these reports of the Interstate Commerce Commission, reports of State boards, etc., is earning and expense per mile: What does that mean?

A. That would simply mean the total earnings divided by the miles of road. That class of statistics are only general in their results.

Q. I was just calling attention to some of them.

A. A railroad might have 1000 miles, 500 might be profitable and the other 500 unprofitable, and a statistical statement of that sort would indicate only the average of the whole.

Q. With these preliminary observations I wish you would give me some of the reasons that enter into your judgment as to why either the local business defined from an operating standpoint as distinguished from through business, or State distinguished from interstate business, costs most to do?

A. First, in considering the State business you have the constant expense of two terminals and second you have the shortness

3359 of the hauls as compared to the through business. There is a large increase percentage of the use of cars in doing the State business as compared with the through business.

Q. That is to say, you have the use of a good many more cars in the State business to handle a smaller volume of business than would be handled in the interstate business?

A. To handle the same amount of tonnage. The lack of a suffi-

cient volume of business at local stations to be able to work the property at such stations economically.

Q. That is to say, the volume of business done at any station has a great deal of effect upon the economy of the work? You can handle a great volume of work per ton cheaper than you can a few tons, per ton?

A. Exactly. I might observe in connection with this subject that obtains in the loading of cars. Where you have a large amount of business and a large volume to load, by skillful handling you are enabled to get a greater load into a car, from a practical standpoint, than you can where you have a small volume of business and where the service is daily in its character.

Another reason is the expensive character of the train and station service to meet the requirements of the business.

Those I think are the main reasons why the local freight or State freight costs very much more to handle than the through freight. And the interstate freight in my judgment is very closely interwoven with the local business.

3360 Q. Why do you say that?

A. I refer to interstate of the class having destination or origination within the State and having destination without the State. I have reference to that class of interstate business. Interstate business which merely crosses the State of course is not affected by these conditions.

Q. Take the less than carload local freight: Do you know anything about the average loading of that, what it amounts to per ton per car?

A. Yes, sir.

Q. What is that?

A. The average loading of less than carload freight, in my opinion, as a general proposition will not exceed four tons to the car.

Q. How much lost weight would that be in the car?

A. If the car weighed 16 tons it would be four pounds of car to one ton of freight.

Q. That would be waste?

A. Absolute waste, because the cost of transportation is by the ton, all of the load, including the weight of the car, the weight of the locomotive and the weight of the caboose.

Q. That would say nothing about the investment in the property while it was being so filled?

A. I did not mention that feature.

Q. Take on these way freights, and way loading, what delay is there to the first movement of the car, especially out at the

3361 country stations and at country points, do they move promptly like they do from cities?

A. The minimum delay to a car engaged in State freight at a local or way point, would probably average 24 hours or more.

Q. Suppose there was a Sunday intervening?

A. And if there was a Sunday, the delay would be 48 hours.

Q. You spoke of the waste of space in the tonnage in the car itself: Take the tonnage of the train based upon the idea of the

number of cars longer in the train, or uselessly carried in the train: Does that cut any figure? The distribution along the line when you start out with a full train?

A. Yes, sir. In handling a local train unless the local train as in some cases obtains, carries some through freight, as a rule when the local gets to the end of its run it has distributed practically all of the cars that it started out with. I say, unless the local train is used for distributing empties for some special purpose or is carrying through freight.

Now, I was going to say that I find on the main line of the Missouri Pacific Railroad that those local trains are used to some extent for carrying through freight, and in order to satisfy myself as to the correctness of my theory I have taken occasion since I have been here to investigate it.

Q. With what result?

A. The six trains in the month of December last past carried an average of 175 tons of freight each as against 470 tons in the case of eight through trains upon the same days.

3362 Q. This, as I understand, is information which after you commenced to look into this thing, you got simply to verify a judgment you already had?

A. Exactly. In fact I think that the management of the Missouri Pacific Railroad in carrying 175 tons average on these local trains is working upon a false basis of economy. That the old way of handling local trains, loading them with local freight strictly, and doing the business and getting over the road promptly, would be more economical than that.

But that is the condition as developed by this investigation.

At the same time we looked into the percentages of through State and interstate business, carried by those trains.

Q. What was the result of that?

A. The local train carried less than carload State business, 93 per cent of the total.

Q. That is upon what you are calling now the way freight trains?

A. Yes, sir.

Q. There is 100 per cent of stuff hauled on it and 93 per cent of it was State as distinguished from interstate?

A. Yes, sir. That is in less than carloads. Seven per cent of the less than carload tonnage was interstate freight.

Now, then, in the carloads——

Q. On way freights?

A. Yes, sir. Carloads; 37 per cent was State freight and 63 per cent was interstate. The total tonnage of these figures

3363 up 175 tons, and this investigation developed that these trains were carrying some interstate through freight, as the carload percentages show.

Q. You mean interstate instead of through?

A. Now, in the through trains that carried an average of 470 tons of freight, 7 per cent was State business and 93 per cent was interstate. There was no less than carload freight carried in those

trains. The number of trains examined was eight of the through trains and six of the locals.

Q. Just in the ordinary course of business?

A. Yes, sir, just in the ordinary course of business.

The MASTER:

Q. Will you give me the dates of those trains?

A. They were examined in the month of December, 1906.

Q. All business done in that month?

A. Yes, sir. They were examined by a man who was sent out on the road for that purpose.

Mr. LADD:

Q. That is for one particular day?

A. I don't know whether it was done all in one day or two or three days, but it was all done at one time.

Q. Did these trains all run on one day?

A. I don't know about that. All I know is that it was all done in the month of December and the detail of the specific trains the company can furnish you.

Q. These trains did not all run on the same day?

A. No, sir, I should think not. You can get the exact information from which this was made up.

Mr. HAGERMAN:

Q. Those were consecutive trains run between *the* St. Louis,
3364 — Kansas City, I understand?

A. Yes sir.

Q. What other illustrations have you there which you wish to give?

A. I might state that I figured up the cost of the tonnage.

Q. In that comparison between 175 tons and the 470?

A. Yes sir.

Q. Give the result of that, please?

A. The cost of the tonnage on the through trains versus the tonnage of the local trains, I estimate that the cost of these through trains per 100 miles would be at $45.00, that is the road cost. Which figures 9.5 cents per ton. Figuring the mileage of the local trains the same, and the cost of making the local trains at $54.00, which I will say is about 40 per cent greater than the through train, the loss per ton figures out 30 cents plus, or very little more than three times.

Q. That cost relates to what?

A. It relates to the cost of the train movement, just the train crew, the engine, fuel, etc., that was used in the movement of the train for a distance of 100 miles.

Q. Counting nothing for all this waste tonnage, waste space you spoke of before?

A. I have not got to that. In making this test, the man who went out to get the information did not bring in the weights of the cars or the engine. Now, I don't know how many cars were used in

moving those 175 tons nor how many cars were used in
3365 moving the 470 tons. The number of cars used in moving the 475 tons if these cars were lightly loaded, would largely increase the cost perhaps of the local trains, that is the 30 cents. I estimated the cost of the local trains at 40 per cent more than the cost of the through trains, for the reason that the crew of the local train has one more man, ordinarily, then the through train in the crew. They pay him a larger sum in wages and the local trains, the way they are arranged on the Missouri Pacific at present, being in my judgment about 20 miles more mileage in their run than they ought to have. In other words, local train ordinarily, cannot move more than 80 miles, against 100 miles on the through train, and do their work. If they make the 100 miles they are paid in another way; that is, by over time.

In order to verify my opinion as to the percentages of local and interstate freight handled by the local stations in Missouri, I also had a man go over the road and ascertain as far as he was able to the exact percentages and this is the result of it. (Producing memorandum.)

The MASTER:

Q. When and for what length of time did that investigation cover?

A. We took the month of October, 1905, for that purpose, because that was one of the months that is under consideration in this case.

Mr. HAGERMAN:

Q. You made a remark that might be misconstrued. This statement was made here, wasn't it?

A. The information was made up from the way bills that
3366 came in from the stations out on the road.

This is the result. State and interstate business done at 88 local stations in Missouri, embracing the main line from Howard to Independence, Missouri, excepting Jefferson City and Sedalia, the Lexington branch, the river division and the Bagnell branch.

Mr. LADD:

Q. These 88 stations are scattered all over this division?

A. Yes sir. And this investigation covers the month of October, 1905. The total cars of State freight handled at these stations during that month was 61.8 per cent of the whole. Of interstate there was 2648 cars, 38.2 per cent of the whole.

Q. You did not give the number of cars in the State freight?

A. 4032. In tonnage the State tons were 115,604. The interstate tonnage was 59,434. The percentage of State tonnage was 66 per cent, and of interstate tonnage was 34 per cent. We found the percentage of empty car mileage necessary to handle this freight was 77. The percentage of empty car mileage necessary to handle the interstate freight was 23.

Mr. LADD: What is the 77 per cent applicable to?

A. That is to say, the empty car mileage in order to do the business was 77 per cent.

Q. To do all this business?

A. To do all this State business. The 23 per cent was necessary to do the interstate business.

To illustrate what we mean by empty car mileage, I will say this: That if you have two carloads of freight moving over
3367 the road from two points, and it is not neceassary to haul an empty car to serve that freight, there would be no empty car mileage. And if there was more tonnage moving in one direction than in the other the difference to serve it would be the empty car mileage.

The MASTER:

Q. If I understand you, the total amount of empty car mileage involved in this movement, given at 100 per cent, would be apportioned between State and interstate at the ratio of 77 to 23?

A. Yes sir. Now, this statement I have just made relating to carloads.

I have another one relating to less than carload freight at the same stations, of State and interstate, business, showing the proportions covering the same territory.

The number of packages of State freight was 177,393. The number of packages of interstate freight handled was 23,882. 88 per cent was State; 12 per cent was interstate.

Figured in tonnage, there was of State freight 5,947 tons. Of interstate freight there was 1,462 tons, 80 per cent of which was State freight and 20 per cent interstate.

The number of shipments of State freight was 24,913. The number of shipments of interstate freight was 5,632. 82 per cent was State freight and 20 per cent interstate.

Q. Have you a memorandum of another test you made as to loading at St. Louis?

A. Yes sir.

3368 Q. Please give the result of that?

A. This is taken from the records for the month of October, 1905, as of date October 2, 3, 4, 5, 6, and 7th. This comprises the less than carload freight shipped to all points in Missouri as well as some less than carload freight shipped to points beyond.

Mr. LADD:

Q. That is from St. Louis?

A. Yes sir, loaded in St. Louis and shipped west across the State of Missouri or into the State of Missouri, some going into the State and other points beyond. But it shows the exact location of the cars.

October 2, 61 cars loaded with a tonnage of 708,841 pounds. Average per car 11,620 pounds.

On October 3, 69 cars were loaded with 845,029 pounds. Average per car was 12,246 pounds.

On October 4th, 66 cars were loaded with 754,120 pounds. Average per car 11,426 pounds.

October 5th, 68 cars were loaded with 850,073 pounds. Average per car 12,301 pounds.

October 6th, 67 cars were loaded with 823,817 pounds, averaging 12,291 pounds per car.

On October 7th, 80 cars were loaded with 936,682 pounds. Average 11,708 pounds per car.

In addition to that there were four cars of oil loaded in bulk, I suppose, carrying 12,500 pounds.

Mr. HAGERMAN:

Q. What do those weights indicate?

A. They indicate that those cars for the distribution of this local freight were loaded practically to their capacity with that class
3366 of stuff.

Q. And leaving practically how much waste space or waste tonnage?

A. In this case they average 5½ tons. The capacity of the car doubtless ranges about 30 tons, which would leave a loss in the tonnage of the car of 24½ tons; or in other words, the cars were loaded to about one-sixth of their carrying capacity.

I stated in my evidence that I believe that four tons was an average load, of this class of freight, for the reason that there are no other stations on the Missouri Pacific than Kansas City that load cars as densely as they do in St. Louis.

The MASTER:

Q. Did this investigation separate State from interstate, the same days that you have made this last investigation?

A. No sir. This includes all freight that was loaded at this depot on those days.

Q. You did not separate it into State and interstate?

A. No sir, on account of the character of the statement, I could not very well separate it. But it seems to me it gives a perfect average of what the State loading would be, so far as it would go.

A great many of these cars were Missouri cars. There are a few cars loaded from Kansas points and perhaps in the Indian Territory, or Nebraska, or places reached by the lines of the Missouri Pacific and it is all loaded as it comes along.

3370 Q. Yes, but that would only indicate the point of destination. But the point of origin would also determine whether it was State or interstate, notwithstanding it was destined to a point in the State?

A. The bulk of this freight originated in St. Louis. It shows the best possible practice in the loading of less than carload merchandise freight.

Mr. HAGERMAN:

Q. The purpose for which you got it was to verify your mind on the proposition that upon these way freights less than carload shipments there was this great loss of tonnage in the car?

A. Yes sir.

Mr. LADD:

Q. I am not quite sure I understood you: Do I understand that this entire loading of less than carloads at St. Louis during those several days?

A. Yes sir.

Q. No matter where it was going?

A. That is it. It is the general record. This is the original report and is made by the man having charge of the loading of the Missouri Pacific Railroad Company, which he makes every day and is used as a check against him to see that he fills up his cars.

They also contain a list of the stations to which these cars are loaded, or for the part of the line for which they are loaded. For instance, he loads a car today for points between Jefferson City and Sedalia, and tomorrow for Sedalia and beyond. That is the system he uses.

Mr. LADD: Would you mind letting me see the papers you read from? There are so many figures I could not carry them all
3371 in mind.

A. I have no objection.

Mr. HAGERMAN: We are perfectly willing you should have them all.

Q. Have you anything else there, Mr. Doddridge?

A. I have a memorandum of local freight runs on the Missouri Pacific, to show how they are divided up. There are 21 different local divisions.

Q. There is some considerable traffic made up at St. Louis destined to Omaha, Pueblo, etc.?

A. Yes sir.

Q. Something has been said in connection with Mr. Sturgis' testimony about necessarily on a shipment from the east there being the use of a terminal in Missouri, of an interstate shipment. In connection with through cars running from eastern points, where that would not be so?

A. The Missouri Pacific operates in connection with eastern lines, a daily through car line from New York to Kansas City.

Q. What do you mean by that, a fast freight line?

A. Yes sir, it is a fast freight line but those cars are loaded with Kansas City merchandise that run through without transfer. It is not rehandled at St. Louis. The car comes in and the only expense connected with it is the shipment of it into the train to Kansas City. The car does not go to the warehouse and the freight is not rehandled.

Q. How extensive is that business?

A. They have one car a day from New York. I presume
3372 if they have freight enough to fill two cars they would run two cars. That is what is known among railroad men as the establishment of a through car line service, to give the fast service.

Q. That is all the service that is required from the buisness?

A. All that is required.

Mr. LADD:

Q. You say one car a day?

A. Yes sir.

Mr. HAGERMAN: And more when business demands it?

A. Yes sir. Now, they have a through car line from Philadelphia to Kansas City through St. Louis. They have one from Chicago to Kansas City four cars per day, or four different car lines. From Cincinnati there is one. Also a through car line from Pinner's Point. That is the name of a transfer point, I think some southern point.

On these cars the freight is not rehandled in St. Louis.

Q. Pinner's Point is the ocean point down at Norfolk or Newport News, or in that vicinity?

A. Yes sir.

Q. What is your estimate of the terminal cost upon the Missouri Pacific?

A. In connection with that I will state that I requested the company to have made up a statement of the total cost of operating the St. Louis terminals for a month, taking into consideration the value of the buildings, tracks, etc., but on account of the shortness of the time I have been unable to obtain it.

3373 My opinion is, that the cost of handling a loaded car on the St. Louis terminals is between five and six dollars.

Q. Mr. Doddridge, with your full knowledge of the Missouri Pacific and its situation here, and the practical way in which railroads are operated and expense accounts kept and paid, is there any way by which it could be accurately ascertained how much more it did cost to do the State business than the interstate on the Missouri Pacific Railroad in Missouri?

A. I do not believe it could be accurately determined without using certain arbitrary percentages, which would be a matter of judgment and opinion, after all.

Q. And in view of the complicated situation as between through and way freight, and divisional points and State lines as they run, isn't it almost necessary to have the judgment of somebody that has practically operated the property itself and is familiar with it?

A. It would seem to me to be necessary to have that kind of judgment to get at anything like a close approximation.

Q. And when you get through with it in the end it is a matter of expert opinion?

A. It is largely a matter of opinion. The great difficulty about a railroad, and the judging of a railroad is, that it is peculiar in the fact that the costs of doing of certain service, take divisions, is a

3374 constantly changing proposition. There is no man who can predetermine in advance the cost of service or the cost of doing things on a railroad, unless he has the conditions upon which the service is rendered, before him.

Sometimes a railroad will have a class of traffic of identically the same tonnage, moved over its line, and the cost under one set of circumstances will be from 25 to 50 per cent greater than they will under another set of circumstances.

To illustrate what I mean: If you have a movement of heavy tonnage moving in one direction and no return loading for your cars, the cost of transportation goes up. And vice versa.

And then under another condition of business you have hard times, for instance, as we had inn 1893, the only freight moving is the great staples. The class of business, the high class of business, that earns a railroad its revenue, almost entirely ceases. The merchant- of the country will discontinue buying goods. They sell the stuff they have on hand. But during that period the expense of the transportation company goes on. Of course not to the extent it did when it was moving this other business, I would not say that, but it changes the percentage, the ratio of operating expense, to the cost of transportation.

That is one of the reasons why the expense per ton mile only gives you an aggregate result of averages.

Q. Taking into consideration your knowledge and familiarity and experience with this Missouri Pacific property in the State
3375 of Missouri, taking into consideration all you know about the situation, carload lots, and less than carload lots, through shipments and way shipments, State as distinguished from interstate business, please tell the Master what in your judgment, or how much more, in your judgment, it costs to do the State business than it does to do the interstate business?

A. In my judgment State business costs at a minimum three times as much as the through business and it may reach six or more times. Or in other words, from three to six or more times.

Q. Three being the minimum?

A. Yes sir.

The MASTER:

Q. In answering the last question there you used the word "through" and I do not know that I quite understand you. In your judgment it costs from three to six times as much to do the local or State business as it does to do the through business, as you answered it. Did you mean by the word "through" that it is synonymous with interstate?

A. Yes sir. That is what I meant. I will state that the words interstate and through and local are a little bit confusing.

Q. That is why I asked the question?

A. According to the test here there was only 7 per cent interstate at those stations, so it would not.

Q. As I understand, in your judgment and opinion, considering all the data you have, and your experience and knowledge of
3376 the conditions particularly of the Missouri Pacific Railroad, it will cost three times, from three to six times as much to carry the State business as it costs to carry the interstate business?

A. Yes sir, as a general average.

Mr. HAGERMAN:

Q. Three being the minimum?

A. Yes sir, I make it three the minimum.

Cross-examination.

By Mr. S. B. LADD:

Q. What is your occupation now, Mr. Doddridge?

A. I am engaged in the automobile business in Kansas City.

Q. You ceased your connection with the Missouri Pacific Railroad in 1900?

A. Yes sir.

Q. Have you been engaged with any other railroads since that time?

A. Well, I have been doing various temporary pieces of railroad work since then. I was connected with the Tennessee Central in Tennessee in the construction of its short line, for about a year. I have been engaged in making some surveys and estimates for a line across the country from the Missouri River to the Pacific. In fact, that work is still in hand, although I have done nothing at it for the last year.

Q. For what company?

A. That work was for some bankers in Montana that are figuring on building a new road. It is not incorporated.

Q. Have you done any work for the Missouri Pacific since you left them?

A. No sir.

3377 Q. How long have you been in the automobile business? You say you are in that business now in Kansas City?

A. We began the construction of a building about two years ago. I will say that I am not actively in charge of that business. My son manages that.

Mr. HAGERMAN: You are starting your son in business?

Mr. LADD:

Q. Have you attended all the hearings in this case?

A. Not all of them, no sir. I began attending the hearings about the middle of November. I heard the last two days of the evidence that was given at Kansas City. That was the Burlington case. I heard practically all of the Wabash case and of course the Missouri Pacific so far as it has gone.

Q. You have heard all the testimony that has been taken here in St. Louis in any of the cases?

A. Yes, I believe I have except when I have been away or out of the court room.

Mr. HAGERMAN: Of course he did not hear the preliminary testimony taken in the Burlington case last summer.

Mr. LADD: I did not include that.

Q. Do you know, Mr. Doddridge, what proportion of the terminals at Kansas City at and in the neighborhood of the State line are in Missouri and what are in Kansas?

A. You mean what proportion of the tracks of those two terminals?

Q. Yes, the Missouri Pacific terminals I refer to now?
3378 A. I do not know exactly the mileage in Kansas and the mileage in Missouri but my impression and judgment is that there is about one and a half miles in Kansas against about four miles in Missouri. I am now speaking of a single line, that is, on each side of the State line in the Kansas City terminals.

Q. How do you divide it?

A. I should say there was about one and a half miles from the State line to the extreme western part of the terminals. And about four miles and perhaps a little more east of the State line as between Kansas and Missouri.

Q. You are talking about just one main line?

A. To get the relative position. Of course the Kansas City terminals are on the State line and you want to know what percentage of track there is on each side of the line. I do not know.

Q. Did you include in the one mile and four miles the terminals that were constructed in the east bottoms?

A. Yes sir, that would embrace them.

Q. I am asking you about the terminals just at the State line?

A. Well, the freight depot at the State line, is in Missouri. The line crosses the State line yard not very far from the center of the yard.

Q. I may be mistaken, but I understood, I think it was Mr. Johnson to testify this morning that there were about five miles of tracks in Kansas?
3379 A. I don't know what tracks he was talking about, but I should think there was more than five miles west of the State line in and about the vicinity. This morning when we were talking about the Kansas City terminals we were talking about all of the yards belonging to the Missouri Pacific Company that are attached to the Kansas State stations there to do the business at Kansas City.

Q. But I am talking just now about right at the State line yards.

Mr. HAGERMAN: If you understood Mr. Johnson to say five miles of that trackage, I do not recall that.

Mr. LADD: I may be mistaken.

A. That is a question I cannot definitely testify to. But it is easily gotten at.

Q. And you do not know how much trackage there is at or near the State line in Missouri, I suppose?

A. No sir, I cannot answer that with any degree of accuracy.

The MASTER: Could not that matter be determined absolutely accurately by reference to the engineering department.

Mr. HAGERMAN: Yes. I understood that was one of the documents Mr. Johnson was to get up.

Mr. LADD:

Q. The packing houses are all of them in Kansas?

A. I think they are but I am not certain about there not being any of them in Missouri. I think they are.

Mr. HAGERMAN:

Q. How about Armour?

A. That is true.

3380 Q. The principal part of Armour's is in Kansas City, isn't it?

A. Yes sir.

Q. What other large industries are there across the line, Proctor-Gamble, the soap industry, that is a large industry?

A. Yes.

Q. What else is there of importance?

A. The stock yards and all of the packing house industries and the various things that are connected with that business, I guess, they are all over in Kansas. I do not remember enough to be definite about it. I am not now very familiar with the situation, I mean in detail. I have not had anything to do with it for five or six years. In fact, I haven't been through the yards there but once or twice during that time.

Q. Almost all of those industrial enterprises which are very influential in Kansas City as a market center, as a matter of fact, are over in the State of Kansas, aren't they?

A. Yes sir, I think they are.

Q. You said this morning that the working end of these terminal tracks was all in Kansas: Is that right?

A. Of all the State line tracks?

Q. Yes, that they were in Kansas?

A. No sir, I did not state that. I said that as I recollect it, and the facts are, the State line crosses the State line yard, and the switches on one end of the parallel tracks are in the State

3381 of Missouri and the other end is in Kansas. Practically the yard is in both States.

Q. How do you say the expense of keeping up those terminals at and near the State line should be divided, on what basis?

A. I stated that I could not tell without going specifically into the subject, that it should be done either on a wheelage or a tonnage basis, and I gave it as my opinion that a maximum of 25 per cent or minimum of 10 to 15 per cent, might be fair. That was the statement I made, as I recollect it.

Q. That is to be charged to what?

A. To be credited to the Missouri business, of course the Missouri Pacific pays it all. That is as a division of the expense between local business going west and the business coming east.

Mr. HAGERMAN:

Q. Between Missouri and Kansas, you mean?

A. Yes sir.

Mr. LADD:

Q. You mean 10 to 15 is the minimum and 25 percent is the maximum which should be charged to the Missouri part?

A. Yes sir, that is what I mean. I only gave that as my opinion; I could not tell without going into the subject and investigating it.

Q. It is suggested to me that perhaps you did not quite understand my question.

You just stated that you intended to state this morning,
3382 10 to 15 as the minimum and 25 per cent as the maximum, of the terminal expense of keeping up those terminals at or near the State line, should be charged to Missouri?

A. What I meant and what I said, as I remember it, or what I intended to say was, that, first, no necessity ever having arisen during my administration of the Missouri Pacific, for dividing terminal expenses at Kansas City, and no account having been kept as between State lines, no attention having been paid to it, if it were to be divided so as to pro-rate between the business of the State of Missouri, in both directions, that proportion in my judgment would seem to me to be about right, without going into the question and arranging upon a specific method of determining it; which of course is easy to do either upon tonnage or wheelage basis.

Mr. HAGERMAN: The question he asks you is whether the small end goes to Kansas or to Missouri?

A. The small end, of course, goes to Kansas.

Mr. LADD:

Q. That is what I thought you meant to say but you used the wrong word?

A. Yes sir, I meant to say the small end should go to Kansas, because that is the light end of the business.

Q. You said this morning that you did not believe a track mileage basis would be quite a fair one to adopt, if those expenses were to be divided, but you thought a fair basis would be the measurement of tons handled?

A. The measurement of the business. I believe I used the term "tons handled" but that would mean the same thing.

3383 Q. When you say 10 or 15 per cent or 25 per cent as the case may be, to the State of Kansas, upon what basis do you arrive at those percentages?

A. What I had in mind was the volume of traffic that belongs to the State of Missouri, at the Kansas City station, is a great deal larger that that which belongs to the west, for this reason: I take it, from your question in regard to the Kansas City industries, that you would perhaps consider those industries as interstate business. As a practical fact it is really Kansas City business, except looking at it from a strictly technical standpoint. All of that business moves out over the Missouri Pacific, on Missouri rates, whatever they may be, or rates made from Kansas City, Missouri. The railroad company is compensated only by the measure of those rates. Therefore, that business should not bear any portion of the expense of doing the business throughout Kansas or Nebraska.

And the passenger train mileage which creates a portion of the expense of the Kansas City terminals is double or three times as much moving in and out to the east than it is to the west.

Or, in other words, the western business is light.

Speaking about the costs of the Kansas City terminals, I refer to

the switching and station expenses, labor of handling freight, and the general meaning of the words.

Q. I know, but does not freight which is not destined for either Missouri or Kansas, have the use to a very large extent of those terminals?

3384 A. Yes sir, that passes through.

Q. They are handled, aren't they, trains are made up in those terminals?

A. Yes sir.

Q. And those trains are all made up in the State of Kansas?

A. No sir, I do not understand it that way. I understand the trains going south of Kansas City and east are made up in the east bottoms yard, exclusively in Missouri. The trains going north are made up either in the State line yard or surface yard, so-called, on the other side of the Kaw River, which is exclusively in Kansas.

Q. Take your 10 or 15 per cent, why do you say only 10 or 15 per cent of that should be charged to Kansas? Do you think all the rest of it should be charged to Missouri?

A. Yes sir, that business comparatively with the business that moves in and out of Kansas City on the east side of the station, is very light. I do not believe the percentage of the run—it would run somewhere in between those figures.

Q. Isn't there a considerable volume of business that goes through those terminals and has the use of those terminals on your road, that does not get into Missouri at all?

A. And passes through Kansas City?

Q. Whether it passes through Kansas City or not?

A. In the case of the line north that comes up the river, I think practically all of that business touches Missouri?

Q. Where?

3385 A. At Kansas City, even if it is delivered to a connecting line. Take for instance a car that would come from Omaha, which is an improbable case, going west by the Santa Fe Railroad, delivered to that company at Kansas City, it would first go into Missouri before it reaches that line.

Q. Where would it be delivered to you?

A. I spoke of a car that the Missouri Pacific has delivered to them.

Q. But suppose freight coming from the east is delivered to you at those terminals: Isn't it delivered to you in the State of Kansas for transportation by you west or southwest? You have a line running to Colorado and one running southwest?

A. All Colorado business passes through 27 miles of the State of Missouri. The load does not cross the line until it goes 27 miles south of Kansas City.

Mr. HAGERMAN: Business as coming from St. Louis would not?

A. If it was passing through Kansas City it would be delivered to the Missouri Pacific in the east bottoms. All traffic coming into Kansas City from the west by the Missouri Pacific line, to go west to Colorado, would pass into Missouri and run 27 miles in Missouri before it went through Kansas. So the great bulk of the Missouri Pacific business handled at Kansas City, even if handled on

its western line, is handled in Missouri, if it goes into the State line yard it goes into Missouri.

Mr. LADD:

Q. Take business from St. Louis or points east, which comes
3386 over your line and to Kansas City merchants, does that go into the terminals at the State line?

A. It would be delivered at the State line or what is known as Grand Avenue.

Q. That is what I am trying to get at: Don't the merchants in Kansas City go down to Grand Avenue and get their freight?

A. Part of it, not all of it.

Q. Don't they the most of it?

A. They do a large busines there at Grand Avenue. Part of it would go there and part of it go to the other place.

Q. I don't know whether the Master is familiar with the situation there, but the Kansas City merchant would not have his freight hauled over into the Kansas side and then have it hauled up that hill, when he could have it hauled to Grand Avenue.

A. Part of them do it. I have received freight myself at the lower depot in Kansas City, under some circumstances. Of course this explanation will make the thing a little more plain: The depot at the foot of Grand Avenue is strictly a local, Kansas City, yard depot, and is located there for the purpose of convenience. It saves the haul up the hill, and is a plant by itself, located where you can get at it with more facility.

Q. At one time it was the only depot you had in Kansas City, wasn't it?

A. I believe it was originally the terminal of the Missouri Pacific Railroad. They have recently built a large warehouse in this
3387 State line yard, a new depot, and it has great capacity, large facilities, both for distribution, transfer, receiving and delivering freight.

Well, now, if a carload of local merchandise was going to Kansas City, consigned by a shipper in Kansas City to be delivered at Grand Avenue, it would be switched around and delivered there. But if that car contained freight to go beyond Kansas City, or to other points, as a large proportion of the cars do, it would go down to the State line yard, where they have their facilities for re-distributing the business.

Q. Take for instance coal, if there is any in these Missouri Pacific territories, and I presume it does more or less for the gas company, that never goes up to the State line yard?

A. No sir.

Q. The gas company plant is down on Grand Avenue?

A. No sir, it is set out there iron works.

Q. That would be true also if any stuff you transported for Hiles Brewery from the east?

A. Yes sir.

Q. And for those manufacturing establishments in the east bottoms?

A. Yes sir, all of them.

Q. Smith's factory, where he makes some kind of agricultural implements?

A. Yes sir.

Q. None of those would go into the terminals at the State line?

3388 A. No sir.

Q. Under these circumstances, Mr. Doddridge, are you willing to say that you think that 25 per cent would be certainly too much of that terminal expense to charge to some other territory than Missouri? You have said 25 per cent as a maximum?

A. I said I thought that 25 per cent would be the maximum charge, if I was going to divide it off-hand, to charge to Missouri.

Q. You mean to territory other than Missouri?

A. Yes sir, that I would charge to territory other than Missouri. And it might work out 10 to 15 per cent as a minimum.

Now, of course, I don't know, and I have no means of being able to give an expert decision on that point without an exact knowledge of what they do there and how the expenses are divided, the number of switch engines they have, and all that.

Q. I would like to ask you, would you be surprised to know that at least 25 per cent of those expenses would not be unfair to charge to territory other than Missouri, those expenses at the State line? In other words, that 75 per cent would be enough to charge to Missouri?

A. From my knowledge of the business there at Kansas City the proportions as it used to run, taking everything into consideration, excluding the local shipments to Kansas City that goes around that station, that surrounds that station, if I were operating the

3389 Missouri Pacific I don't believe I would want to pay more than the amount I have stated.

Mr. HAGERMAN:

Q. The big packing houses like Armour & Company, and Proctor, have their tracks and they bring it out on their own lines and bill it to Missouri points?

A. We have no lines there.

Q. They have their own private industrial tracks?

A. Yes sir.

Mr. LADD:

Q. Is it your idea that what comes from the west and south ought to be charged to Kansas, and what comes from the east ought to be charged to Missouri?

A. No sir, my idea is that the only part of the business there that could be chargeable to the Kansas City station would be the line to the north. The line runs to the north.

Q. That is your Omaha line?

A. That is the Omaha line and that is the only line they have that comes directly into those terminals out of any State. When the Omaha line gets to Atchison there are about 450 miles of railroad in northern Kansas that comes in at Atchison and comes into Kansas

City over the Omaha line. They have but one line of rails from Kansas City that goes directly into another State than Missouri.

Q. There is your Kansas City northwestern that runs up to Beatrice, that you spoke about this morning?

A. That is a small line that does strictly a local business.

Q. That is in the same category as the Omaha division?

3390 A. That line has a yard of its own, independent. I don't know whether it is included in this Kansas City terminal, but originally it had a yard of its own.

Q. Doesn't it have a line into the Cypress Yards?

A. It does not connect with the Cypress Yards at all. It comes in on a line of its own and connects with the State line yard not very far from the Kaw river, I should say two or three blocks. They may have changed their method of operating the railroad since I left there, but that was originally the method of conducting it.

That railroad had its own facilities at first, because it was a line we acquired. Its business is very insignificant as compared with the other portions of the business. It is strictly a local line.

Q. You said this morning that in the last six years, since you left the company, it had added very largely to its equipment in the way of cars and locomotive power?

A. Yes sir.

Q. When was that done?

A. They had been getting them, the very next year after I left the road, and they have been adding to it right along ever since, I think. The annual report I think showed. I recollect there is a five million dollar car truck represented in this annual report.

Q. You spoke about the value of the property in Missouri this morning: How do you get at that?

A. I stated that I gave that value in a very general sense and at $40,000 per mile of road. I based it upon my general

3391 knowledge of the property, and the report of the Bureau of Commerce of the United States, which values all of the railroads in the State of Missouri at $40,000 per mile. I did not state it, intending it to be an accurate figure.

Q. Could you tell me where that report is?

A. I saw it in a bulletin in Mr. Robert Moore's office, an engineer of this city. His office is in the Laclede Building.

Q. I don't know anything about that. I would like to see that report.

A. I will borrow it from him, if he has it.

I will say this: The way he came to show it to me was, in discussing the question of the value of the Missouri Pacific with the counsel for the road, the question of ascertainment of value came up and I went to Mr. Moore to consult with him on the subject. He is an engineer of national reputation and incidentally in the conversation with him he reached into the drawer and got out this bulletin which he had evidently just received from the Department of Commerce at Washington, giving the value of railroad properties of the country, generally. We had some conversation as to how to get at value and we found that to go into that fact accurately and

properly would involve a very large expense, which it was considered unnecessary for the *purchase* of this case.

The MASTER: That will be sufficient of the subject of the conversation between you and Mr. Moore.

3392 Mr. LADD:

Q. You said this morning something about the census: Was it census or statistics of the Interstate Commerce Commission?

A. No sir, it was not the Interstate Commerce Commission report, it was the census.

Q. The census?

A. Yes sir, the census of 1900.

Q. It was a bulletin of the census bureau, was it?

A. Yes sir.

Q. If you can bring that in here I would be very much obliged to you because I have not seen that bulletin.

A. If Mr. Moore will let me have it I will bring it in.

Q. In this estimate of $40,000 a mile, do you include the equipment?

A. No sir. I consider it the general value of the railroad, as I knew it, and taking into consideration the cost and adaptation or accumulated improvements of the Missouri Pacific lines along the Missouri River, shops, Machinery, etc., added to the road. In my judgment I gave it without going into the details or without making any specific figures, that the railroad properties must be worth $40,000 a mile.

Q. Without the equipment?

A. Without considering the equipment.

Q. Did you take into consideration the earnings of the company in arriving at that estimate?

A. No sir.

Q. You do not at all?

A. No sir, not in that connection.

3393 Q. I understood you to say this morning that the earning capacity was the only way to judge of the value of the property: Am I mistaken about that?

A. I did. I gave an answer to a question of that kind. That this kind of an estimate is merely a matter of opinion.

The true way, in my judgment, to ascertain the value of railroad property, I state as my opinion, generally, can be determined by the earning capacity. Because if a railroad had no business it would not be worth anything but scrap. Its right-of-way would not be of any value except for farming land.

Q. You said this morning, and I want to know if I understood you correctly, speaking of the tonnage of the railroad, that the greater per cent is in commodities and merchandise and 75 per cent was on the commodity kind:

Now in that 75 per cent I wanted to ask you whether you included merchandise?

A. No sir, if I remember I stated 75 per cent of the tonnage was

in the commodity line and not over 25 per cent was in the class line or higher classes of freight. If I did not state it that way that is what I meant to state.

Q. The way I have it here is "75 per cent vas of the commodity kind, such as the products of agriculture and the forest, cement, lime and building material?"

A. Yes sir.

Q. Those are illustrations of commodities?

A. Yes sir. What I meant is the commodity line, commodities 75 per cent of the tonnage would be in commodities.

3394 Q. What is merchandise included in, some of these higher classes?

A. Yes sir, it would be in the higher classes.

Q. Can you tell how much of the tonnage is less than carload?

A. No sir, I don't believe we made any estimate on that.

Q. You could not make an estimate on that?

A. I could, but I haven't made it.

Q. Are you prepared to make any estimate on that?

A. Do you mean on State business?

Q. Yes?

A. Or do you mean on the general business of the road?

Q. Take the general business of the road.

A. My memoranda here gives it on State business.

I submitted a memorandum statement of State business less than carload, taken from 88 stations in Missouri for October, 1905, showing—well, these percentages I will say really are only the percentages of State and interstate business, less than carload. It does not show the total tonnage. So that would not be of any value in getting at those percentages.

Q. Could you with the aid of that, or independent of that, would you feel like making an estimate giving your opinion as to the probable percentage of freight less than carload, both State and interstate, of the whole tonnage?

A. The percentage would be very small, stated in that way, less than carload tonnage as applied to the total tonnage handled.

Q. In Missouri?

3395 A. In Missouri. But what it would be in figures, I of course am not prepared to venture an opinion on, except it is small, as I have said.

Q. Mr. Doddridge, suppose the Missouri Pacific receives at St. Louis a carload of freight from some connecting line east of the river, destined to Independence, Missouri: Of course the company would put it into one of its own trains: How would that carload of freight be handled after it got into one of the Missouri Pacific trains? What kind of a train would it be put into first at St. Louis?

A. It would start on a through train.

Q. Where would that through train go?

A. That through train would go—that would depend on what line it got on to.

Q. I am speaking of Independence.

A. It would go by way of Sedalia, I presume, go in that through train to Sedalia, and there it would probably be set out and put on the local that runs from Sedalia to Kansas City, and there stop and be set out at Independence.

Although I would not say that would always be done that way. Under some circumstances they might put it into some of their through trains and set it out at Independence. That is very close to Kansas City and for operating reasons they might do it that way.

Q. Take a carload shipment from Cincinnati to Warrensburg?

A. That would undoubtedly be handled in the way I have said.

3396 Q. It would go on what you call the through train from St. Louis to Sedalia?

A. Yes sir.

Q. And there it would be taken out of that through train? Ordinarily what time would that through train get to Sedalia—almost any hour?

A. Yes sir, almost any time.

Q. It would be taken out of that through train at Sedalia and there made up as part of a way or local train from Sedalia to Kansas City: Is that right?

A. Yes sir.

Q. Which, if necessary for any purpose, would stop at all the stations between Sedalia and Kansas City?

A. Yes sir.

Q. That is what you call a way train?

A. Yes sir, a way or local train.

Q. Suppose you have a shipment from Cincinnati to Hermann, Missouri, that is east of Jefferson City?

A. Yes sir.

Q. A carload shipment?

A. Yes sir.

Q. How is that handled after you get it at St. Louis?

A. That would be sent out I presume on the local. The local run, however, out of St. Louis, the straight local run, does not reach as far as Hermann.

Q. Doesn't it?

A. No sir. The local run out of St. Louis goes only to Pacific, 35 miles, for the reason that there is a very large industrial

3397 work on the Missouri Pacific between St. Louis and Pacific, that requires local switching, and the local train that runs out of St. Louis does not make many miles on that account. It goes out to Pacific, turns around and comes back. The crew of that train really is engaged in local switching all day. For instance, the Glencoe lime kiln is attached to this run. There is a very large business going from the Meramac River for street work. These local trains make, for that reason, a very short run.

But there is another local run that starts from Pacific——

Q. And goes to Jefferson City?

A. Yes sir. And this car going to Hermann might go out in the through train. There are two classes of through trains. One called

the red ball and the other the green ball. One is for fast and the other for slow freight.

On a through freight might drop off a full carload for Hermann. If it were less than carload it would of course be loaded in the local car for Hermann.

Q. What would be the usual course, to put in into the local for Pacific and then at Pacific put it into another local?

A. The car would be set out there and the local would pick it up the next morning.

Q. It would be carried from St. Louis to Pacific, on one morning, and the next morning it would be picked up by another local and taken to Jefferson City and dropped at Hermann?

A. Yes sir.

3398 Q. That would be the general course, would it, as to freight of that kind? For all points between Pacific and Jefferson City?

A. Yes sir, I should say it would, unless they happened to have through trains that were light, to clean up that character of business. That is sometimes done. They do not always confine this to these local runs.

Q. That is exceptional, I understand?

A. Yes sir, exceptional.

Q. Is this true—or I will ask you another question:

Suppose on the same day, or you have in your hands for transportation at the same time you have this car from the east of which I have just spoken, for Hermann, you have another car, a full car, which had been loaded at St. Louis for Hermann: Would that Cincinnati car and the carload which you have received at St. Louis from the consignor, be put into the same train?

A. Probably they would but not necessarily.

Q. They probably would?

A. Yes sir, they probably would.

Q. And those two cars after they got into your possession would receive the same treatment in getting to the consignee?

A. Yes sir.

Q. They might go and probably would go in the same train?

A. Yes sir, they would if it fit the case.

Q. And when they got to Hermann they would receive the same treatment from your company, that is, see if I am right about it: They would both be put on what you call a team track?

3399 A. Yes sir.

Q. For the consignee to come to that track with his wagon and unload those two cars?

A. Yes sir.

Q. You call a train from Kansas city to St. Louis a through train, don't you?

A. Yes sir.

Q. I don't know that you have already stated, but I will ask you whether you have or not: Do you have through trains made up principally of State freight which run from St. Louis to Kansas City: I will leave out livestock, of course. That, of course, is in carload lots.

A. I don't think there are through trains that are run exclusively to carry St. Louis-Kansas City freight, either way, unless it is live-stock. I do not think there is any attention paid to the difference in the classes of freight if it is going thro'.

Q. Exactly. And now, how many of these through trains, as a rule, does the company have, running from St. Louis to Kansas City, daily?

A. I do not know now how many services there are. Of course, there are quite a number.

Q. Would there be a couple?

A. Oh, more than that.

Q. More than two through trains each way?

A. Oh, yes, I should say at least five or six each way.

Q. And those through trains are made up entirely of carload lots?

3400 A. Yes sir, made up entirely of carload lots.

Q. And you put into those through trains indiscriminately carload lots without considering whether they have come to you from connecting lines east of the river, or whether those cars have been loaded in St. Louis, provided they are destined for Kansas City: Is that right?

A. Yes sir. Those through trains are not necessarily made up, these carloads, those going through to Kansas City. Of course, those trains do not carry freight ordinarily for intermediate points.

Q. There might be full carloads destined for points west of Kansas City and you would carry those on your through trains as far as Jefferson City?

A. They would naturally place the cars going to one of those short points in one of the slow trains. As I understand the practice on the Missouri Pacific today, they have two classes of through trains: That class of trains that are merchandise trains, carrying what they term technically "red ball freight" or the highest class of freight. Those trains are supposed to go through on time, on the schedule. Then they have a class of freight trains that carry two classes of freight or "green ball freight." These green ball trains might carry carloads of freight that are scattered, that do not go through to Kansas City, one, two or three cars.

From a transportation standpoint the objection to putting short cars in through trains is the fact that they frequently have not got other freight to take its place, to make up the tonnage.

3401 Q. You mean cars that have shorter hauls?

A. Yes sir. The idea is to keep the tonnage of *of* the train to the maximum.

At this point the usual hour having arrived, adjournment was taken until tomorrow morning, Thursday, January 17, at 10 o'clock.

ST. LOUIS, MISSOURI, *January* 17, 1907.

Met pursuant to adjournment on Thursday, January 17, 1907, at 10 o'clock in the forenoon in the Federal Building in the City of St. Louis, Missouri.

Present: Mr. F. L. Scofield, Special Master.

Mr. Frank Hagerman appeared in behalf of the Complainant.

Messrs. F. B. Ladd and John Kennish, appeared in behalf of the Defendant.

The following proceedings were had:

Redirect examination by Mr. HAGERMAN:

Mr. HAGERMAN:

Q. Mr. Doddridge, will you prepare a detailed statement as to these 88 stations and show the freight movements from St. Louis during the term you investigated?

A. Yes sir.

Q. I would like to ask you, Mr. Doddridge, whether you can give us in some way your judgment in the way of an estimate, as to the loss in the use of cars in less than carload lots, say on business State and interstate?

3402 A. In my judgment it requires five or more cars to handle the same amount of tonnage in less than carload, State and interstate business, than it does in through interstate business.

Q. Take the loss in train mileage: What would you say as to that?

A. It requires to handle the same number of tons of local or State business three times as much train miles as it does to handle the through business.

Q. Now, then, how about the distance, the comparative cost for distance?

A. In handling less than carload business upon the local division of 100 miles, it practically costs as much to handle a package of freight 100 miles as it does to handle it a shorter distance.

Q. Of say what?

A. Of say 10 miles. The only difference in the expense would be the consumption of coal which would be infinitesimal.

Q. What would you say as to the loss of train tonnage in the use of the locomotive?

A. The same answer applies in the case of engine mileage, in the use of the locomotive, that does to the train mile, that is to say, three to one.

Cross-examination.

By Mr. S. B. LADD:

Q. I want to ask you a few more questions about the general movement of trains on the road. You know how they run?

3403 A. I want to say in respect to that question, that I am not specifically familiar with the practices that prevail on the Missouri Pacific Railroad today. I assume, however,

that the trains are run as a general proposition the same as they were six years ago.

Q. I would like to ask you whether there are any trains running from St. Louis to Kansas City regularly, which when they reach Kansas City, so far as the tonnage is concerned, are the same as they were when they left St. Louis: That is to say, that neither leave any freight on the road nor pick up any freight on the road?

A. I believe there are such trains. There used to be.

Q. How many every day?

A. I cannot state exactly how many, but there are probably two or three at least, each way.

Q. Are those trains entirely made up of freight in carload lots, such trains as I have just mentioned?

A. Yes sir.

Q. You said yesterday, if I understood you correctly—I will try to state the substance of it and if I am wrong please correct me—that the operating officer takes no account of whether the freight in the train is intrastate freight or interstate freight: The consideration with him is whether it is way or through freight: Is that right?

A. That is substantially correct.

Q. On the through trains I have just asked you about, if there are full carloads of State freight destined from St. Louis to Kansas City, would they be put in such a train?

A. They would.

3404 Q. You think there may be at least three of these trains each way: Is that right?

A. You mean scheduled trains?

Q. Yes?

A. I should say there were three or more through services scheduled between St. Louis and Kansas City that run at different times in the 24 hours.

Q. You do not include in that any trains loaded with livestock if there are any: I do not mean to any important extent?

A. No sir, I mean with dead freight.

Q. You spoke yesterday of red ball trains and green ball trains?

A. Yes sir.

Q. What do you mean by red ball trains? Is such a train as we have just been talking about, a red ball train or a green ball train?

A. As I understand the practice on the Missouri Pacific Road, in order to systematize and give expedition to the various classes of freight handled on the system, they have adopted a schedule of two classes of through freight, one of which they named technically red ball freight, for the purpose of convenience in operation and identification. Red ball freight is considered the highest class or the most important freight, and is supposed to be given the most rapid movement.

Q. Let me ask you at this point, whether that is all in carloads or not?

A. Yes sir. That is to say, the red ball classification ap-

3405 plies to carloads. And it identifies the various classes of freight that is indicated as red ball.

Then they have another classification, a lower class of freight, which they indicate in their regulations as green ball freight. Green ball freight is of a lower class. The red ball freight is given preference in the loading of the trains or in its dispatch from terminals, over the green ball class of freight.

Q. Is the green ball freight hauled in carloads?

A. Yes sir, it is hauled identically the same. But where any freight is to be delayed, for any reason, the green ball freight is the freight that is left.

Q. Are these through trains you speak of running from St. Louis to Kansas City and back again, of which there are at least three, and which do not change their constituents, from the time they leave until the time they arrive, are they both red ball and green ball?

A. Yes sir, both classes.

Q. Is the red ball freight, and green ball freight, carried in these what you call through trains?

A. Yes sir.

Q. And in both classes of them, if there is intrastate freight in carloads, you put them into those trains just as well as interstate?

A. That would obtain, as I understand it, between division points.

Q. I am talking about a carload of State freight, starting from St. Louis and intended for Kansas City: That would go into
3406 one of those through trains?

A. Yes sir. The operating official would not pay any attention to which it was, but would send it right along.

Q. How many way trains are there?

A. In Missouri?

Q. Yes?

A. 21 is the number I figured up in the statement furnished me by one of the employés of the road.

Q. That is daily?

A. Daily except Sunday.

Q. One way train, I presume, of course, starts out from St. Louis: Is that right?

A. Yes sir.

Q. Every day?

A. Every day except Sunday.

Q. And only one?

A. Only one local train unless they have added some other kind of local since I left the road, that I do not know anything about.

Q. How far does that way freight train run from St. Louis?

A. It runs from St. Louis to the Pacific and return.

Q. You speak about 21 trains: You mean 21 trains each way?

A. I will state there are from 18 to 21. My memorandum is a little bit confusing on that point.

The MASTER:

Q. Are those 21 way freight trains all operated on the main line between St. Louis and Kansas City, or do you include all way
3407 freight trains on all through lines and branch lines?

A. All way freight trains on main and branch lines.

Mr. LADD:

Q. Tell me between what points each one of those 21 trains run? St. Louis to Pacific and return: Pacific to Jefferson City: Jefferson City to Pacific. Do all these trains run both ways?

A. No sir, a-d that is where I am confused in stating the number of trains. This run from St. Louis to Pacific is what they call a "turn around." It runs out there and back in the day.

Mr. HAGERMAN:

Q. I think they have changed that train now and it runs to Jefferson City?

A. This statement is substantially correct, but is confusing in answering specific questions as to the number of way trains.

Mr. LADD:

Q. Your answer will be then that the first train runs from St. Louis to Jefferson City?

A. Yes sir.

Mr. HAGERMAN: A change has been made within the last month.

Mr. LADD: Until within a month the train ran to Pacific and since then it goes to Jefferson City?

A. If that is a fact then there are two local trains between St. Louis and Jefferson City, one each way.

Q. One going west and one coming east?

A. Yes sir. They would be operated with two crews and two engines.

Q. Proceed.

3408 A. Jefferson City to Sedalia and Sedalia to Jefferson City. That is a turn-around and is operated with one crew and one engine. There are two from Sedalia to Kansas City.

Q. One to Kansas City and one back from Kansas City?

A. One each way, daily.

Q. Proceed.

A. Jefferson City to Myrick, there is one each way.

Q. Where is Myrick?

A. Myrick is the junction point for Lexington on the river.

Q. That is what you call the low line?

A. Yes sir.

Q. Go on.

A. There is a "turn-around" local between Kansas City and Myrick.

Q. One and return?

A. Yes sir.

There is a turn-around local between Sedalia and Myrick. There is a turn-around local between Bagnell and Jefferson City.

Q. Bagnell is on what you call the Bagnell Branch?

A. Bagnell is the terminus of the branch south of Jefferson City Then there is a turn-around local between Sedalia and Warsaw.

Q. That is a branch?

A. Yes sir, that is a branch and Warsaw is the terminus of the south end of that branch.

3409 Then there is a local turn-around between Boonville and Versailles. Versailles is the junction point with the Rock Island south of the main line of the Missouri Pacific.

Q. That crosses the main line of the Missouri Pacific at Tipton?

A. Yes sir.

There is a local train between Kansas City and Nevada?

Q. Each way?

A. Yes sir, there are two. The distance is 103 miles, so there must be.

Q. That you think would not be a turn-around?

A. The distance from Kansas City to Nevada is 103 miles, so I hardly think it would be a turn-around.

Q. Probably one each way?

A. Yes sir.

There is a turn-around local from Nevada to Webb City.

There is a local run between Nevada and Coffeeville. And I presume there is a local each way there as the distance is 106 miles? I am not sure about that, however.

Q. Coffeeville is in the State of Kansas?

A. Yes sir, but this local runs into Kansas a short distance.

There is a turn-around local run between Asbury and Albia, a distance of 11 miles.

I will say in connection with that, that is some new line that I never heard of before.

Q. Where is Asbury or Albia?

A. It is in the southwest.

3410 Q. Both in Missouri?

A. Yes sir, both in Missouri. Webb City to Granby and return, a local train.

Q. How far is that?

A. 28 miles one way.

Q. In the case of interstate carload freight shipped from St. Louis to any point between Jefferson City and Sedalia, being two division points, I understand that that carload of freight would be taken on a through train from St. Louis to the first division point, which is Jefferson City: Is that right?

A. In that specific case I do not know whether that is exactly right or not, for this reason: I made inquiry last evening on the subject from the Superintendent of the road and he informed me——

Q. I do not want to be technical about this, but that is objectionable.

The MASTER: That would be improper.

A. Then I will have to answer that I do not know.

Mr. HAGERMAN: Except on information from others?

A. Except on information from others.

Mr. LADD:

Q. I understood you to state that in a general way yesterday.

A. I did but I find they have a certain practice on the Missouri

Pacific to cover such cases as that. Ordinarily that would be the way it would be handled.

Q. Who is the Superintendent?

A. Mr. H. P. Clark, who is here.

Q. Ordinarily you say that would be the way it would be handled, carried to Jefferson City, the first division point, on a through train?

A. Yes sir.

3411 Q. And then that carload of interstate freight destined to some point between Jefferson City and Sedalia would be put on the way freight the next morning, or the first way freight that goes out, and carried on that way freight to its point — destination?

A. Yes sir.

Q. I will ask you whether the same course would not be taken ordinarily with a full carload of freight loaded at St. Louis for the same points between Jefferson City and Sedalia?

A. Yes sir.

Q. I understood you to say yesterday (I do not find my notes) that on some of the branch lines only local or way trains are run?

A. That is true.

Q. What branches do you refer to?

A. Bagnell branch, Warsaw branch, the branch between Sedalia and Myrick and the Granby branch. There are probably several others but I do not recall them.

Q. How is it on the line from Bonnville to Versailles?

A. There is no through service there.

Q. It is all done by local trains?

A. By local trains, yes sir.

Q. How is it from Sedalia to Lexington?

A. That is also a local service.

Q. It follows then, doesn't it, Mr. Doddridge, that local or way trains on all those branches you have mentioned carry all the interstate business?

3412 A. They carry all the freight business.

Q. Yes, the entire thing?

A. Yes sir.

Q. Take the case of a carload of grain shipped from Holden to Kansas City: Would that go on a way or a through train?

A. That would be carried on a local freight.

Q. And the same would be true of a carload of any kind of stuff from Holden to Kansas City?

A. Yes sir.

Q. The same would be true of any kind of stuff from Kansas City to Holden?

A. Yes sir.

Q. It would be carried on the way freight?

A. Yes sir.

Q. Suppose you have a carload of freight loaded on Holden for some point on a line east of the Mississippi river. That is interstate freight. Would that carload of freight be taken on a way freight train from Holden to Sedalia, the first division point?

A. Yes sir.

Q. And then loaded onto what you call a through train: Is that right?

A. Probably that is what would be done with it.

Q. Would the same be true of a carload of freight from Pleasant Hill, still further west? Would that be taken to Sedalia on the way train?

A. Yes sir.

3413 Q. Would that be true of all stations of interstate? carload freight, destined for points east of the Mississippi river, starting from any station between Sedalia and Kansas City?

A. Yes sir.

Q. And the same rule might be said to apply generally, may it not, Mr. Doddridge, that where interstate freight in carload lots is received at any point on your line for shipment, any point on your line between division points, for shipment, it is carried to the first division point on a local or way freight train, isn't it?

A. Yes sir.

Q. In answer to a question of Mr. Hagerman yesterday and also in answer to some others yesterday, you spoke about the State freight in less than carloads?

A. Yes sir.

Q. And the expense of handling it and so on: How, the proportion of State freight in less than carload lots is very small, isn't it?

A. I testified yesterday from the test made, as to the proportion. In round numbers, the less than carload State and interstate freight was about in the proportions of 80 to 20 per cent.

Q. What are you looking at now? Your 88 stations?

A. State and interstate less than carload freight at 88 stations in Missouri, in October, 1905.

Q. Well, what do you say to that?

A. I will read the memorandum over——

3414 Q. Let me ask you a question: Those 88 stations were all the stations, as I understand, between Howard, which is a little west of St. Louis, to Independence on the main line, excluding Jefferson City and Sedalia?

A. Yes sir.

Q. It is all the stations between Howard and Independence on the main line, except Jefferson City and Sedalia?

A. Yes sir.

Q. It is also all the stations on the Lexington branch?

A. Yes sir.

Q. Between what points does that run?

A. The Lexington branch is between Sedalia and Lexington.

Q. The river division?

A. Yes sir.

Q. What station?

A. Jefferson City and Kansas City.

Q. You do not include Kansas City?

A. I was going to say, excluding Kansas City.

Q. And Jefferson City?

A. Yes.

Q. And the Bagnell Branch?
A. Yes.
Q. Those 88 stations were included within those limits, and were all the stations within those limits?
A. I infer they are all the stations but positively I do not know.

The MASTER:

Q. You said the percentages were 20 and 80: Which was 20 and which 80?
3415 A. Approximately, the percentages run about that. I will read from the memorandum——

The MASTER:

Q. What I want to know is, which had the larger percentage?
A. The State freight is 80 per cent and the interstate freight is 20 per cent.

Mr. LADD: That is not the question I asked you. I will proceed again. I understood you to say yesterday—Now, that includes all the freight handled at those stations, doesn't it?

The MASTER: I understood it meant less than carload.
Mr. LADD: He has both.

A. No sir, it does not include carloads.
Q. That includes all the freight handled at these stations during that period. Isn't that what you testified?
A. I testified it was all of the less than carload freight.
Q. Didn't you give the tonnage of the carload freight, too?
A. I did, but it was in another memorandum.
Q. But it refers to these stations?
A. Yes sir.
Q. The investigation which you directed in regard to these 88 stations, covered all the freight handled at those stations: Didn't it?
A. Yes sir.
Q. All of the freight handled at those stations, none of them being division points, must have reached and left there on way
3416 trains: That is true, isn't it?
A Yes sir.
Q. Now, I will ask you to state from your own memorandum, how many tons of State freight was less than carloads lots during that period?
A. 5,947.
Q. 5497 tons of State freight?
A. Yes sir.
Q. In less than carload lots?
A. Yes sir.
Q. How much State freight was there in carload lots?
A. 115,604 tons.
Q. Then what percentage of the tonnage of the State freight was in less than carload lots, about 5 percent, wasn't it?
A. Roughly, yes.

Q. And about 95 per cent of that State freight was in carload lots?

A. Yes sir.

Q. Carried on those way trains?

A. Yes sir.

Q. How many tons in less than carload lots, of interstate freight, was carried on those trains?

A. 1,462 tons.

Q. And how much interstate freight in carload lots was carried on them?

A. 59,434 tons.

Q. What is the percentage there, something like 3 per cent?

3417 A. Yes.

Q. In less than carload lots?

A. Yes.

Q. Then the percentage of the freight handled at those stations in less than carload lots would not be in the proportion of 20 to 30, would it?

A. The percentages I referred to in my answer——

Q. You misunderstood my question, I think. The percentage of total freight handled at those stations is something like 5 per cent in less than carload lots, isn't it?

A. Yes sir.

Q. Take both classes of freight, State and interstate, handled at those 88 stations, what was the total amount of freight in less than carload lots, in tons?

A. 7,409.

Q. What was the total amount of carload freight of both classes, in tons?

A. 175,038.

Q. And the total was 182,447 tons, wasn't it?

A. Both classes of freight?

Q. Yes?

A. 182,447 tons.

Q. Now, the percentage of less than carload freight carried by those way trains was only about 4½ per cent of the whole: Isn't that right?

A. I should say roughly, without figuring.

Q. And 95½ per cent carried by those way freight trains

3418 you have mentioned was in carload lots: That is true, isn't it?

A. Yes sir.

Q. I said 4½ per cent: Are you pretty quick at figuring percentages? Instead of being 4½ per cent my figures shows 4.06?

A. I did not figure it but just approximated it in my mind.

Q. That would be practically four per cent. That would leave 96 per cent of the freight carried on those way or local trains in carload lots?

A. Yes sir.

Q. You spoke yesterday of there being loss of space in the

handling of interstate business: Space in the cars I suppose you mean?

A. Yes.

Q. You mentioned that as one of the consideration-?

A. Yes.

Q. Is there any more loss of space in handling intrastate freight in carload lots than handling interstate freight in carload lots: They are both filled up, aren't they?

A. See if I understand the proposition correctly. The loss space in handling intrastate or interstate freight?

Q. You spoke yesterday of loss of space: I can understand very well how there is a loss of space in carrying any kind of freight in less than carload lots: But I ask you if there is any more loss of space in carrying intrastate freight in carload lots than there is in carrying interstate freight in carload lots. A carload lot means a full carload, doesn't it?

3419 A. A carload lot means a carload upon which a carload rate of freight is paid. It does not always mean a full load in tonnage, as measured by the pound of freight. The reason for that is, that carloads vary from 20,000 or 10 tons to 30 tons, ordinarily. There are cars that carry more than 30 tons.

Speaking of carloads of State or interstate freight, I now refer to commodities, there would be no loss in space, in my judgment, as between the two classes of freight, under those conditions and circumstances.

Q. There would not be any more lost space in one case than in the other?

A. No sir. Because there is a distinction without a difference, as to these kinds of freight.

Q. Will you look at your memorandum about those 88 stations, again: You gave yesterday the number of cars on the trains that handled this tonnage during that period at those 88 stations.

A. No sir, I did not give the number of cars.

Q. I don't know how I got it then. Didn't you say there were 4822 cars handling State freight?

A. Well, I misunderstood your *your* question. Yes.

Q. 4282 cars carrying State freight: That is right, is it?

A. Yes sir.

Q. How many cars were there during that period carrying interstate freight?

A. 2648.

Q. What was the percentage in number of State cars of

3420 the whole number of cars?

A. 61.8.

Q. And the percentage of cars carrying interstate freight to the whole was 38.2, wasn't it?

A. Yes.

Q. What was the percentage of tonnage carried in those 4282 cars?

A. State freight 66 per cent.

Q. And the tonnage carried in the 2648 cars of interstate freight?

A. 34 per cent.

Q. That shows, doesn't it, that these cars which carry State freight, on the average were loaded more heavily than the cars which were carrying interstate freight?

A. Yes.

Q. Those are your figures, aren't they?

A. Yes sir, those are the figures.

The MASTER:

Q. That is to say, 61 per cent of the cars carried 68 per cent of the tonnage?

Mr. LADD: Yes sir, and 34 carried 38 per cent.

Mr. LADD:

Q. That is right, isn't it?

A. Yes.

Q. That would indicate that the State cars were loaded more heavily than the interstate cars, wouldn't it?

A. Yes sir.

Q. There was no lost space there as compared with interstate freight?

A. Evidently not, in the cars.

Mr. HAGERMAN: What are those papers?

3421 A. One of the statements is the amount of intrastate and interstate less than carload freight handled at stations on the Missouri Pacific Railway named therein.

The paper referred to is marked Exhibit 7. Exhibit 7 is in the words and figures following to-wit:

3422 Q. That is one of the statements to which you made reference yesterday?

A. Yes sir.

Q. Have you anything to show the period of time covered by that statement?

A. The month of October, 1905.

Q. The next statement is one where you referred to the amount of intrastate and interstate carload freight handled at the stations from Howard on west: That is another statement you referred to yesterday?

A. Yes sir, that is the second one.

Q. Was that for the same period of time, October, 1905?

A. Yes sir.

The statement referred to is marked Complainant's Exhibit 8. Complainant's Exhibit 8 is in the words and figures following, to-wit:

3423 WITNESS: I have a copy of the local loading at St. Louis from which I read the results, but I have but the one copy.

The paper referred to is marked Complainant's Exhibit 9. Complainant's Exhibit 9 is in the words and figures following, to-wit:

3424 Q. Mr. Doddridge, you spoke yesterday of these local trains which you had had investigated, and you said, if I remember aright, that the average tonnage of those six way or local trains was 175 tons?

A. Yes sir.

Q. That is right, is it?

A. Yes sir.

Q. Now, it appears from your figures in regard to the freight handled at 88 stations, that a small fraction over 7 per cent of it was in less than carload lots: That is right?

A. Yes sir.

Q. Four per cent of 175 tons would be in round numbers seven tons, wouldn't it?

A. Yes sir.

Q. That would leave then 168 tons of carload freight on those way trains, 7 from 175: That is right, isn't it?

A. Yes.

Q. You also stated that 63 per cent of the carload freight on the locals was interstate and 7 per cent was State freight: Is that right?

A. Repeat that question.

Q. I asked you if you stated that 63 per cent of the carload freight on the local trains was interstate freight and 7 per cent was State freight?

A. Yes.

Q. The tonnage as you say on those way freight trains, the total tonnage being 175 tons, the percentage of less than carload freight 7 tons, which leave- 168 tons of carload freight: And you
3425 say that 63 percent of the carload freight on these local trains is interstate and 37 percent State freight, it follows that *if* those 168 tons of carload freight carried on these local trains, 105 tons was interstate freight and only 70 tons State freight: Isn't that right?

A. I will have to calculate that out to see. I presume that is right if your figuring is correct.

Q. It is not a difficult problem. Your less than carload freight is 7 tons, a little over 4 per cent: Taking out of 105, the total tonnage of the trains, leave- 168 tons?

A. Yes.

Q. You have already said that 63 per cent of the carload freight, that is 168 tons, is carload freight?

A. Yes.

Q. And you have already said that 63 per cent was interstate and 37 per cent was State freight?

A. Yes.

Q. 63 per cent of 168 tons is 105 tons, isn't it?

A. Yes sir,

Q. And that leaves 70 tons of State freight including both the carload and less than carload lots?

A. Yes sir.

Q. I am including all less than carload there and charging that

all up to the State. If 63 per cent of 168 tons is 105 tons, that leaves 63 tons of carload freight, doesn't it?

A. Yes sir.

3426 Q. And there are seven tons of less than carload freight, and charging the less than carload to the State, it makes only seventy tons in all, doesn't it, Mr. Doddridge?

A. Yes sir.

Q. So that is where a train is carrying one hundred and five tons of interstate freight, and only seventy tons at the outside of State freight: Those are your figures, aren't they?

A. Yes sir, that is the way it figures out.

Q. Now, when you speak of train mileage statistics, as you did yesterday, Mr. Doddridge, that is entirely independent of the length of the train or the load that it carries, isn't it?

A. The train mileage statistics as they are kept by railroad companies today, do not relate to the weight of the train. They are made up for entirely different purposes, aren't they?

Q. A freight train of ten cars running one hundred miles counts just as much on the train mileage basis as a freight train of twenty cars running the same distance, doesn't it?

A. Yes sir.

Q. You testified here yesterday, or read from some statements you had, which you gave us, of percentages of local freight; by whom were those investigations made? Did you make any of them personally?

3427 A. As to the examination of the eighty eight stations?

Q. That is one of them, yes.

A. And as to the exact tonnage of those trains, the test of weights carried?

Q. That is another?

A. I did not personally make them.

Q. Who did it?

A. There was some one sent out from the Auditor's office to get the information, at my suggestion.

Q. Do you know who it was?

A. No sir, I do not know.

Q. Do you mean sent out in the country?

A. I mean sent out on the road to get the information as to the trains' tonnage. The work of making up the station tonnage was done in the office.

Q. What did you say that had to go for, if they went out at all?

A. They went out on the road and rode on those trains and took the consist of the trains from the conductors' trains' list

Q. A man went out and rode on those actual trains?

A. Yes sir, that is the way that part of it was done. You see there are two statements here, and one relates to the station tonnage.

Q. That relates to the 88 stations?

A. Yes sir, that was made up, as I understand, from the waybills.

3428 The MASTER:

Q. That is for the month of October, 1905, is it?
A. Yes sir.

Mr. LADD:

Q. Take that 88 station report, who made that up?
A. The clerks in the Auditor's office of the Missouri Pacific Railroad.
Q. That was made up from information already in the Auditor's office?
A. Yes sir, already in the office.
Q. But these trains you speak about in December, certain way trains and certain through trains, a part of that information was obtained by sending out a man on each one of those trains: Is that it?
A. Yes sir, he rode on the trains on the road. And it was taken from the actual practice.
Q. What did that enable him to do?
A. That enabled him to get the tonnage carried on those trains.
Q. How would he do that? Would he check it up or would there be papers in the conductor's hands? Or how would he get that?
A. The conductor carries a train-book and a memorandum way-bill or a regular way-bill.
If he had a regular way-bill he took the exact tonnage from it, and if he did not he took from the conductor's memorandum the necessary information to identify the way-bill in the office at St. Louis to compile the information from.

3429 Q. Did one man do all of that?
A. No sir, I think there was two.

Colonel CLARDY: There were four.

Mr. LADD:

Q. Four men were sent out on the train.
A. I don't know.

Mr. CLARDY: We can have these four men to verify these reports.

Mr. LADD:

Q. I understood you to say yesterday there were six local trains and eight through trains: Is that right?
A. There were eight through trains tested: six local trains.
Q. Where did those local trains run from? Where did they start and where did they end?
A. I cannot answer that question, but it was on the main line between Kansas City and St. Louis.
Q. You cannot tell specifically on what division?
A. No sir, except that it was on the main line.
Q. You cannot tell on what division any one of those six local trains run?
A. No sir, I cannot from my own information.

Q. And you do not know who it was rode on those trains?
A. No sir, I do not know the names of the employees who obtained the information.
Q. What kind of through trains were those? You say they were eight through trains: where did they run?
A. They were through trains between St. Louis and Kansas City.
3430 Q. Were they the kind of through trains you spoke of this morning?
A. The kind of trains we have been talking about.
Q. Loaded at St. Louis and which never change their composition until they get to Kansas City?
A. I cannot say they never change their composition between St. Louis and Kansas City, because I do not know. I assume that. They were ordinary through trains.
Q. You spoke this morning of certain trains that would not change their composition, all the way from St. Louis to Kansas City.
A. Ordinarily they do not change their composition.
Q. They remain intact as they start, until they reach their destination?
A. Yes sir, ordinarily.
Q. I am asking you if these eight are that kind.
A. Yes sir, these eight through trains are. The information given me was they were that kind of trains. I would say further——
Q. You cannot testify to what you do not know.
A. I do not know about that.
Q. Do you know what day this test was made?
A. No sir.
Q. Do you know what day this test was made at any of the local trains?
A. No sir.
Q. Do you know what day the test was made of any of the through trains?
A. No sir.
3431 Q. You only know on information that it was made in October?
A. No sir, the information was obtained in December.
Q. Yes, I meant to say December. How late in December?
A. It was along in the middle of December. The information was obtained at my own suggestion.

The MASTER:

Q. December 1906?
A. Yes sir.

Mr. LADD:

Q. While the Wabash hearing was going on?
A. Yes sir.
Q. You think it was about the middle of December: Is that about right?
A. My impression is that it was about the middle of December.

Q. Did you talk with the men that went out, on these trains, any of them, yourself?

A. No sir.

Q. With whom did you talk?

A. I talked with Mr. Fisher of the Accounting Department of the Missouri Pacific Road and he arranged to send a man out.

Q. And these men that went out in this way reported to Mr. Fisher?

A. Yes sir.

Q. Did Mr. Fisher prepare this statement?

A. These memorandums I made myself.

Q. Did he give you the data for that?

A. From the information which he obtained for me.

3432 Q. Is there anything in those memorandums regarding those six and the eight trains that is not information that Mr. Fisher communicated to you or gave you in writing?

A. The memorandum is the result of the——

Q. I am talking now of those six local and eight through trains and not the 88 stations.

A. I obtained my information through Mr. Fisher.

Q. He gave it to you in writing, did he, those figures?

A. He called them off from the reports which he received from the men.

Q. And you did not talk with any of the men?

A. I did not see the men who made the tests.

Q. And you do not know who they were?

A. No sir, I do not know who they were.

Q. Would it be possible to ascertain when these tests were made and on what part of the road?

A. That detail is all available. Mr. Fisher is here.

In explanation I will state that my knowledge as to the percentages of the business of the Missouri Pacific and the percentages of the tonnage hauled by these various trains seemed to require confirmation—my ideas about it. So after listening to the testimony that was given in the Wabash case, I requested Mr. Fisher to obtain this information for me, which he did, and this was the result of it. And Mr. Fisher is here himself and I presume the men who made the test can be reached.

Q. It did not occur to you I suppose, Mr. Doddridge, to offer to our side to allow a man to go along with these people on these trains.

3433 A. No sir, it did not.

Mr. HAGERMAN: There is no difficulty about that. If you just want those men to go back and take the test over, your men can go with them at any time you want it done. I suppose from what Mr. Doddridge said that he simply did it of his own notion to confirm his own individual ideas.

Mr. LADD: I understand perfectly that Mr. Doddridge could not do this work alone and had to have assistants.

Mr. LADD:

Q. You spoke of two trains which you made up on paper yourself, constituted in different ways, and having different kinds of freight: one of them was loaded with iron: Is that right?

A. Yes sir.

Q. Containing a certain number of cars. Another was loaded with a different kind of freight, and contained a different number of cars?

A. Yes sir.

Q. You made a comparison between perhaps the revenue of those trains and the cost of those trains, and the result of that is to show, I suppose, Mr. Doddridge, that no two trains will make exactly the same revenue per ton mile or will cost the same per ton mile: Is that the idea?

In other words the one train was more profitable than the other?

A. I was not dealing with the revenue at all.

Q. One train then was more expensive?

A. One train was a more expensive train than the other I was dealing with the cost of operation entirely.

3434 Q. You could hardly imagine, could you, the possibility of there existing two trains made up in the same way and going over the same route that would cost exactly the same amount of money to make the run?

A. I think the case of any two trains costing identically the same amount of money would be very rare in common practice.

Q. And that is why, Mr. Doddridge, that accountants and statisticians and railroad managers resort to the average result from all business, for a considerable period of time. If the expense was the same, and the revenue the same, in every instance, there would be no necessity for any averages, would there?

A. No sir. Those statements of the average cost per ton mile I believe are made up more for the purpose of a general test of the prosperity of the railroad or more for financial reasons than for operating reasons.

Q. If the revenue on every ton of freight was the same for every mile and the cost of carrying every ton of freight per mile was the same, there would be no necessity for dealing with averages at all, would there?

A. No sir, I think not.

Q. On your illustration of yesterday showing two trains costing different amounts to run, is an illustration of the necessity, or an illustration of the situation from which the doctrine of average arises: Isn't that so?

A. Yes sir.

Q. Is the investigation of the freight handled at those 88 stations you gave the number of cars that were engaged in hauling
3435 state freight, the number engaged in hauling interstate freight, and then you gave the empty mileage: You gave the percentage of empty mileage: What was that?

A. 77 per cent.

Q. How was that arrived at?

A. It was figured up by clerks, or whoever made up the statement in the Auditor's office.

Q. Have you the number of empty cars?

A. The number of empty cars is not stated in the statement.

Q. How was that obtained: You say from records, what records?

A. Records in the Auditor's office of the Missouri Pacific Railroad, or the car service office. There are different departments which keep these records. From what particular office we got that information, I do not know. Probably we got it from the car service office. We have a car service office there that keeps records of the movements of empty cars.

Q. On what basis was it figured? How would a man go about getting a per cent of empty mileage for those 88 stations?

A. By counting the mileage in transporting that freight and counting some empty mileage necessary to be moved to meet the requirements of moving this business.

Q. You do not mean to say that of the cars which handle this business, 77 per cent went back empty: That is not it, is it?

A. Well, you cannot hardly put it that way. That is a case of where your law of averages comes in. You figure up your
3436 loaded car mileage on a railroad, and you figure up the empty car mileage on the same railroad, and the percentage of the two results obtained will show where your empty car mileage existed or loaded car mileage.

Q. Who is the man that figured these per cents?

A. One of Mr. Fisher's men.

Q. You do not know who it was?

A. No sir.

Q. You just took it as he gave it to you?

A. Yes sir, I took it as he gave it to me. I asked for that information. I wanted to know the percentage of empty car mileage in handling the state business in making this test in arriving at the percentage.

Q. We would like to know on what basis this was figured up?

A. That is the basis of the way it is usually figured and I assume that is the way they figured it.

Q. You assume they did?

A. There is no other way I know of figuring it.

Q. You got it from Mr. Fisher and you don't know from whom Mr. Fisher got it: Is that right?

A. That is right.

Q. You spoke yesterday of certain—you spoke of them as lines from New York, Philadelphia, and perhaps some other places, to Kansas City, which were run on an arrangement between the Missouri Pacific Railroad and the eastern connection: I inferred before you got through you meant cars.

A. Car lines.

Q. You mean a single line?

A. Yes sir.

3437 Q. You got it from Mr. Fisher, and you don't know from whom Mr. Fisher got it: Is that right?

A. That is right.

Q. You spoke yesterday of certain—You spoke of them as lines—from New York, Philadelphia, and perhaps some other places, to Kansas City, which were run by an arrangement between the Missouri Pacific Railroad and eastern connections: I inferred before you got through you meant cars?

A. Car lines?

Q. You mean a single line?

A. Yes sir.

Q. You meant car when you used the expression "line" because in some cases you spoke of two lines?

A. Yes sir, that is what I meant.

Q. Can you give us the daily average of the tonnage of those cars?

A. No sir.

Q. Is the information in the Missouri Pacific office?

A. Yes sir.

Q. I would like the daily average for say 30 days.

Mr. HAGERMAN: Isn't that something your experts can get with their work, without requiring hours to do it? It would take considerable work on our part to do it.

Mr. LADD: The testimony has been offered about those three lines and it makes it incomplete and unsatisfactory all around. We don't know what it means.

3438 The MASTER: I should not be authorized at all to impose on one side or the other the task of securing information for the benefit of one side or the other. The books containing the information are there?

Mr. HAGERMAN: I do not mean any little matter they would call for that I would not get for them, as heretofore.

The MASTER: I understand. This would involve considerable work which you do not care to be required to perform, and of course I would not enter an order requiring you to perform it.

The usual hour having arrived, recess was here taken until two o'clock.

After recess on Thursday, January 17, 1907, the following proceedings were had:

Redirect examination of Mr. DODDRIDGE.

By Mr. HAGERMAN:

Q. Something was said yesterday, Mr. Doddridge, in one of the questions on direct examination, as to a comparison of the cost per mile of operating the Missouri Pacific Railroad in Missouri, as compared with certain groups in the Interstate Commerce Commission's schedule: I wish you would explain in addition to what you said about the difficulty of the roadbed in the bottoms of the Missouri

River, in a general way, whether it costs more in Missouri to operate than in some of the surrounding States: And if so, why?

3439 A. I will state that the Missouri Pacific Railroad, with reference to the statistics of the Interstate Commerce Commission, as shown in the report issued by the Government in the year 1904, and from which I took my information, is located in group 8 of the map of that report, which comprises that part of the State of Missouri lying south of the Missouri River, the States of Arkansas, Kansas, Oklahoma, and a small portion of the Dakotas, New Mexico, and a large portion of Colorado.

The statistics, in a general way, set out the comparative operating results of the railroads in group 8, in which the Missouri Pacific is located; and group 6, which comprises the States of Illinois, Iowa, a portion of the Dakotas; North and South, Minnesota and Wisconsin. And in some of the statements referred to, the classification of the statements relate to the States themselves.

The track mileage of railroads in the State of Illinois is shown to be 11,622.74 miles. The track mileage in the State of Iowa is 9,859.23 miles. The track mileage in the State of Missouri is 7,711.05 miles.

The number of miles of railroads per 100 square miles of territory in the State of Illinois is 20.75 miles. In the State of Iowa 17.77 miles. And in the State of Missouri 11.22 miles.

The same information per 10,000 inhabitants; In the State of Illinois is 22.66. Iowa, 41.34. Missouri, 23.23. The total mileage in group six is 47,100.00. The total mileage in group 8 is 29,609.49.

3440 In group six there is double track 3,317.73. Yards and sidings 14,418.40 miles. Group 8 has double tracks 209.18 miles. Yards and sidings 6,649.20 miles.

Under the head of locomotives, group 6 has, passenger 1947, freight 5444, switch 1606, unclassified 23, total 9020.

Group 8 has passenger 1081, freight 3084, switch 754, unclassifield 20, total locomotives 4939.

Car equipment in group 6: Passenger 6663, freight 358,412, company service 11,677, fast freight 559, total car equipment 376,-752.

Group 8: Passenger cars 3205, freight cars 157,288, company service 10,409, total car equipment 170,902, fast freight 663.

I will ask if I must read all of this tabulated statement?

Q. Can't you put it in in an Exhibit? I want it in a general way, the difference in the expenses?

A. It shows relative conditions in the two groups of territory, from railroad standpoints, in the number of cars, engines, wages paid and so forth.

Q. You had the wages paid in Missouri, compared with that territory?

A. The wages paid per mile of line in group 6 was $29965 per mile.

In group 8 the amount of wages paid per mile of line was $28749.

Q. How do you account for that difference?

3441 A. The difference arises mainly from the higher rates paid to the operators of the railroad in group 8 from those

paid in group 6; and also in the difference in the large number of men employed in the two territories, on account of the density of traffic being much less in group six.

Q. Where is that grouping to be found?

A. On this map (indicating book).

Q. Have you that tabulation or compilation?

A. This is a compilation taken from the Interstate Commerce Commission's figures.

Q. Let that be copied and handed to the stenographer.

The paper referred to is offered in evidence as Exhibit —.

Said paper is in the words and figures following to-wit:

3442 H. G. CLARK, a witness of lawful age, being duly produced, sworn and examined on the part of the Complainant, testified as follows:

Direct examination.

By Mr. FRANK HAGERMAN:

Q. Your name is what?

A. H. G. Clark.

Q. Where do you reside, Mr. Clark?

A. Sedalia, Missouri.

Q. What official connection have you with the Missouri Pacific Railroad Company?

A. Superintendent of the Eastern Division.

Q. And what is the eastern division?

A. Between St. Louis and Kansas City.

Q. How long have you occupied that position?

A. Since December 1, 1906.

Q. And what position did you occupy before on the Missouri Pacific?

A. In December, 1871, I was telegraph operator. In 1872 I commenced train dispatching. In 1881 I was train master. In 1882 I was assistant superintendent.

Q. Of what lines?

A. I might say from 1881 until 1883 on the M. K. & T., what was a leased line of the Missouri Pacific. In 1883 to 1884 train dispatcher at St. Louis, Missouri, on the Missouri Pacific. 1884 to 1885 chief train dispatcher. 1885 also train master. 1886

3443 division superintendent. From 1887 until 1893 superintendent. From 1893 until February, 1902, general superintendent.

Q. And from 1902 to the present time?

A. In February, 1902, I resigned as general superintendent of the Missouri Pacific to accept the position of general manager of the Choctaw, Oklahoma & Gulf Railroad.

Q. That is a railroad running from Little Rock out to Oklahoma?

A. Out through the Indian Territory, yes, sir.

Q. And now a part of the St. Louis & San Francisco Railroad?

A. Yes, sir. I remained with them until August, when the Rock

Island purchased it, and then I returned to the Missouri Pacific, after a few months lay-off, as division superintendent at Atchison, Kansas.

Q. Where did that division extend? From Atchison to Kansas City?

A. From Kansas City to Omaha and included the central branch from Atchison to Laredo, Kansas.

Q. Were you in that position up to the time you took your present one?

A. In August, 1903, I accepted a position as superintendent of the Illinois division of the Wabash Railroad, at Decatur, Illinois. January 1, 1904 I accepted a position as manager of the Western Maryland Railroad, at Baltimore, Maryland, and I was there in 1904 and 1905.

Q. Is that one of the Gould roads?

A. I have never earned a dollar except on the Gould lines,
3444 except the few months I was with the Choctaw.

Q. Outside the times you were with the Choctaw you have been in the various employments upon Gould lines, mainly, in Missouri?

A. Yes, sir.

Q. You heard Mr. Doddridge's testimony here, who has just left the stand?

A. Yes, sir.

Q. Without going into the details that he went into, Mr. Clark, I will ask you whether you are familiar with the different classes of interstate freight that is carried upon the Missouri Pacific road in Missouri: For instance, as I gather from the witnesses, the interstate freight may be classified into three sub-divisions: First, that class which passes clear through the State; next, that class which starts outside the State and comes into the State; or starts within the State and passes out?

A. I understand that classification.

Q. And then, State freight, which I will call, as some of the lawyers have, "intrastate freight," in order to make pointed the distinction I will call it State as distinguished from interstate: You are familiar with that?

A. Yes, sir, that which originates and stops within the State.

Q. Taking your practical experience upon this Missouri Pacific Railroad in Missouri, and all you know about it, and all you know about the character of the freight hauled, and the character
3445 of the business done, how much more does it cost to take care of and to carry the State freight than it does the interstate?

A. Four or five to one.

Q. Four or five times as much?

A. Yes, sir.

Mr. HAGERMAN: That is all I want to ask Mr. Clark.

Cross-examination.

By Mr. KENNISH:

Q. Do you mean by that it costs four or five times as much to carry a ton of State freight as a ton of interstate freight?

A. Yes, sir.

Q. That would be on the per ton per mile basis? That is, a ton of freight for each mile carried, that it would cost the company four or five times, I understand you to say, as much to carry a ton of State freight one mile as a ton of interstate freight one mile?

A. Yes, sir.

Q. Do you know the percentages, or could you give an estimate of the percentages of the different classes of freight referred to by Mr. Hagerman, carried on your road in the State of Missouri: Say first interstate freight that is carried entirely across the State: What percentage would that be of the total freight handled in the State of Missouri?

A. I do not know.

Q. Do you know about what per cent the tonnage handled
3446 by your road would be of the second class of interstate freight, namely, that which originates or has its destination in the State of Missouri?

A. No, sir.

Q. Have you any opinion as to the percentage of the total freight handled by your company, of State freight, in carload lots?

A. No, sir.

Q. Or of State freight in less than carload lots?

A. No, sir.

Q. What percentage do you think the interstate freight in less than carload lots would be of the entire freight carried by your company in the State of Missouri?

A. I do not know.

Q. Do you think that a witness is qualified to give an intelligent opinion as to the relative cost of carrying the different classes of freight, without a knowledge of the proportions of each?

A. Yes, sir.

Q. Then on what do you base your opinion as to the increased cost?

A. In handling State freight it is done by what is called a "way freight train". We handle these way freight trains with a lighter engine than the through trains, for two reasons: One is, the larger engine could not go into all the industry tracks, and go through all the switches we have——

Q. Before going any further with that answer, are you assuming that the way freight trains carry a larger per cent of State
3447 freight than interstate freight?

A. Yes, sir.

Q. Were you here this morning when Mr. Doddridge explained his figures, showing that on local trains the greater per cent of the freight, as shown by an examination made by employees of the Missouri Pacific, was interstate rather than State freight?

A. I did not so understand it.

Q. I will ask you if the figures given on what were termed local trains, of which Mr. Doddridge gave the number as six, that were examined especially by employees of the Missouri Pacific; and if he did not show by his figures that the percentage of less than carload freight carried on such a train would be a slight fraction over four per cent of the entire tonnage carried?

A. I cannot testify against the record.

Q. And if the carload carried by local trains was not divided, 63 per cent interstate and 37 per cent State freight: Weren't you present when those figures were given?

A. I was present and heard those figures, but I do not remember enough to apply them now.

Q. If those figures were given as I have stated them, and if that was the result obtained as to an investigation of the kinds of freight carried by local trains, then your reasons given for the increase of State over interstate freight would not apply, would they?

Mr. HAGERMAN: You would not let him give the reasons. You stopped him in the midst of it.

3448 Mr. KENNISH:

Q. You started in to give the increased cost of State traffic, because of the increased cost of what you call local trains, didn't you?

A. Yes, sir.

Q. If the local trains carry more interstate freight than State freight, I understood you to testify a little while ago it would not show an increased cost of State over interstate freight?

A. Did I say the local trains carried more interstate?

Q. Assuming they do?

A. I shall not do so.

Q. I will ask you to answer the question, assuming that the figures I have stated, which were given by Mr. Doddridge this morning, showing there was a greater percentage of interstate traffic done on your local trains than there was State traffic, and then I want you to give your opinion as to whether or not the State traffic on such trains would cost more per ton than interstate traffic: Assuming those facts to be true.

Mr. HAGERMAN: That is not a fair assumption of Mr. Doddridge's testimony. All he said was that on some of those way trains they put through business.

The MASTER: They can assume it for the purpose of future testimony.

Mr. HAGERMAN: That is not the question. It is assuming Mr. Doddridge said something he did not say.

The MASTER: That was qualified by simply the naked as-
3449 sumption—assuming that as a fact.

Mr. KENNISH:

Q. Assuming now that the local trains do in fact carry more interstate than they do State freight, then would you still say that

State freight costs the company four to five times as much to handle as interstate freight?

A. In the same train?

Q. Local trains such as Mr. Doddridge said the employés of the Missouri Pacific road investigated in the month of December last?

A. I am afraid we do not understand each other. I do not understand you.

Q. I think that last question was plain enough.

A. If you want me to make a comparison between the interstate and the State freight carried in local trains, that is easy to answer.

Q. The question I asked you, Mr. Clark, was this: That if the local trains carry more interstate freight than State freight, then would it cost the company four or five times as much to carry the State freight on that train as it would the interstate freight on that train?

A. No, sir.

Q. Would it cost the company any more to carry the State freight on such a train, assuming the proportions were as I have stated, than it would the interstate?

A. The greater the proportion of interstate freight on the local freight trains, the less difference in the cost, because the interstate freight is crowding off the local freight, which increases the cost.

3450 Q. Take it in less than carload freight, Mr. Clark, and suppose that the local trains carried an equal amount of interstate freight of that character and of State freight of that character: Would it cost the company any more to handle the State less than carload freight than the interstate less than carload freight on that train?

A. Yes, sir.

Q. Why?

A. If you do not break me, I will tell you: We use a smaller engine on the local freight trains.

Q. I am speaking about one train.

A. On a local freight train, put it—for two reasons: Because this engine can go into industry tracks with sharp curvatures, and between buildings of narrow clearance, where the larger engines cannot run. And to handle this local freight train with a very large, modern freight engine, and give it its tonnage, causes a great deal more damage to the equipment in switching at the stations.

The local engine assigned to a way freight train runs in the day only and lays over at night and on Sundays, losing the time and mileage of this engine.

Besides, in the running repairs made on these way freight engines are made during the night or Sunday, for which the company pays a higher rate than during the day time.

The way freight train never has full capacity over the entire run it makes, but always leaves its initial point light, to pick up other cars, or, if it starts out with a full tonnage it sets out some cars, and the company loses the full tonnage of this engine the full distance of its run.

3451 The company pays a higher rate to the engineer, fireman, conductor and brakeman on the way freight than on the through freight train. And there is one more brakeman on the way freight than on the through freight.

We are constantly requested to carry passengers on these local or way freight trains, and I think it has been done at the request of the State Board of Railroad and Warehouse Commissioners, as a compromise from stopping the passenger trains. And this is a menace to the passenger, often causing damage. And besides, to protect the passenger we must, when we arrive at the station, pull the caboose up to the platform, and unload the passengers, before proceeding with the work at the station. Instead of leaving the caboose back a piece and let the men get right to work, they must take care of the passengers.

Then if in working their train at the station, the caboose gets away from the station, the caboose has got to be backed up again to the station to load passengers. All of which takes time and costs money.

Q. Now, those are the reasons you give for your opinion that it would cost the company four to five times as much to handle the State traffic as interstate traffic?

A. Not all.

Q. What other reasons would you give?

A. If the road did nothing but interstate traffic, it could dispense with a great many agencies and with a great deal of those terminal facilities, as well as station facilities, clear across the State.

3452 Where we now have some agents and operators at $50.00 a month, a strictly interstate road would have a small box with an operator. There would be no station to maintain, nor a great many of the facilities maintained at stations would be required.

Q. Before you pass from the item of cost by reason of the expensiveness of what you term the way freight trains, I understand that by that you mean that because State freight is carried in that kind of a train, therefore it would cost the company four or five times as much to do the State freight business as to do the interstate business?

Mr. HAGERMAN: That is not a fair assumption. Those are some of the reasons. You have not permitted him to tell all the reasons.

Mr. KENNISH:

Q. Isn't that the reason, so far as the extra cost of the train in which the freight is carried is concerned?

A. I am comparing the cost of the way freight train with the through freight train.

Q. You assume that the State business of course is done on the way freight trains?

A. On the Missouri Pacific we have four classes of freight trains.

Q. Is that right? Were you using way freight trains as the trains upon which the State business was carried, and, therefore, the State business cost the company that much more, by reason of that fact?

A. Yes, sir.

Mr. HAGERMAN: You started to explain what *you* meant by way freight trains and you interrupted him.

3453 Mr. KENNISH: I submit he passed the matter of trains.

The MASTER: The exact status is this: The witness was not yet through enumerating all the elements that increased the cost of State freight. You parenthasized by a specific matter, and since that time he has not had opportunity to go back and enumerate the other reasons. I don't know whether he has or not. That is the only objection I see to the cross examination.

Mr. KENNISH: I don't know that I asked him for all the reasons. If counsel on the other side want him to do that they may ask him.

Mr. HAGERMAN: You asked him what reasons he had.

The MASTER: I think the witness when he has given an opinion, if you ask him for a single reason, that brought about the conclusion that he had given, he would not have to confine himself to a single reason. He might go on and enumerate half a dozen. I think that is fair to the witness.

Mr. KENNISH: I don't want to be unfair to the witness.

The MASTER: I know you do not.

Mr. KENNISH: I think I am entitled to cross examine him as to certain reasons before he goes on with his others.

The MASTER: Yes, if you imply in your question that you have reference to the reason and not all the reasons he may have.

3454 Mr. KENNISH: I intended to put it that way.

That is the one reason as to the extra cost because of the character of the train in which the State freight was carried.

Q. You have said all you were going to say for the reasons of the increased cost of the State traffic?

A. No, sir.

Q. As to the character of the train?

A. No, sir.

Q. You may proceed and I don't care if you confine yourself to the train, but give all the reasons if you can?

A. I will add, that these local trains stop at almost every station. It is in the way of other trains. The switching becomes expensive. There is more wear and tear to the engine doing the work. They damage a good many more cars than through trains, in pulling out draw heads and bars. And as to the question of the rates received on this freight, I guess this will answer——

Q. I haven't asked you about that. Are you through with your reasons?

A. There are more people hurt at stations by the local trains than the through trains. That is all I can think of now about the trains.

Q. Is that all?

A. About the train- that is all I can think of now.

Q. Is that all of your reasons upon which your opinion was based, that the State traffic costs the company four or five times more than the interstate traffic?

A. No, sir.

3455 Q. I will ask you to give your reasons: Have you any more?

A. Yes, sir, I have.

Q. Proceed?

A. The loss of the use of the equipment. There is more empty car mileage to handle State business than there is through business.

Q. Is that all?

A. That is all that occurs to me now.

Q. You were speaking of through business as contracted with the business done on the way freight trains, weren't you?

A. Yes, sir.

Q. You were dividing freight into those two general classes?

A. Yes, sir.

Q. Through business and that which is done on the way freight trains?

A. Yes, sir.

Q. And you give the reasons why the business done on the way freight train would be more expensive to the company than that done on the through freight trains?

A. Yes, sir.

Q. You speak then of State freight, of course, as being done on the way freight trains?

A. Yes, sir.

Q. And the through freight as being interstate freight?

A. Yes, sir.

Q. Those are the two classes into which you would divide
3456 all the freight business done by the Missouri Pacific Railroad in the State of Missouri, and you say that the freight that is carried on the way freight train costs the company about four to five times more than the freight which is carried on the through freight trains?

A. Yes, sir.

Q. Suppose that interstate freight is also carried on way freight trains, and suppose that there is more interstate freight carried on a way freight train than there was State freight, how would that affect your opinion as to the increased cost of State freight as compared with interstate freight?

A. I have answered that.

Q. How did you answer it?

A. I said that would be governed by the ratio or proportion of interstate freight to State freight in these way trains.

Q. Suppose the proportion was that the interstate freight exceeded the State freight on the way freight trains?

A. That would reduce it conditionally. But not as much as might be supposed at first sight, because the way freight may still have to stop and do work at each and every station.

Q. It would have to stop and do the work that was necessitated by reason of the interstate it carried, wouldn't it? If it carried more interstate freight than it did State freight, Mr. Clark, wouldn't it have more work to do in connection with the interstate freight than it would with the State freight?

A. It depends upon the kind of freight. I will say no,
3457 because St. Louis—Kansas City, provide most of this local freight.

Q. Provides for it?

A. They furnish it. Most of it comes from those two points.

Q. Take the local freight trains referred to by Mr. Doddridge this morning, and I understood it was a local starting from St. Louis and loaded in St. Louis: Now, if that freight train, contained 63 per cent carload freight which was interstate and 37 per cent freight which was State freight, that freight would have to be delivered somewhere along the route of that train that day, wouldn't it?

A. Is this 63 per cent carloads?

Q. Yes, carload freight. And 37 per cent of State carload freight?

A. In bulk or pieces?

Q. Carload freight is always in bulk.

A. We load carloads of merchandise for 40 different consignees.

Q. Wouldn't that be called less than carload freight, even if the car was loaded?

A. I don't know about that.

Q. You are familiar with the freight conditions?

A. I call it a carload when it is loaded.

Q. Whether there are 40 consignees or one consignee, you would call it carload freight, provided the car was full, wouldn't you? And what you mean by less than carload is a car that is not entirely full of freight?

3458 A. I understand what you are driving at. L C L means in packages. All right, I will accept that as less than carload freight.

Mr. HAGERMAN:

Q. Less than carload lots?

A. Yes.

Mr. KENNISH:

Q. Take the train I am speaking about, Mr. Clark, and — order that we may understand each other, you heard Mr. Doddridge's evidence that that local train of 175 tons consisted of about four per cent of less than carload freight: That the carload freight was divided as 63 per cent interstate and 37 per cent State freight: You remember those figures, don't you?

A. I remember those figures, but not how they were applied.

Q. Assuming the train is loaded that way?

A. You take a train out of St. Louis?

Q. Yes?

A. And 63 per cent is carload and interstate?

Q. Yes, and 37 per cent of the carload freight is State freight?

A. Yes.

Q. Four per cent of the freight was less than carload?

A. You have 100 per cent now.

Q. The carload we are assuming on the basis of 100 per cent applying to carload?

A. You have me mixed. When you get me over 100 per cent I am through.

Q. Take 175 tons, and four per cent of that total amount was less than carload freight of the remaining 96 per cent,
3459 say, 63 per -ent was interstate carload freight and 37 per cent was State carload freight, and it was all carried on a local train?

A. Gentlemen, I don't understand how you get over 100 per cent. You have 104 per cent there, and I don't understand it.

Q. Now, I think not.

A. 63 per cent and 37 per cent and four per cent.

Mr. HAGERMAN:

Q. He is taking 63 per cent of 97.

A. Very well, it is 63 per cent of the 96 is L C L way freight, less than carload.

Q. No, sir, 63 per cent is carload less than carload?

A. Is it in bulk?

Q. It is carload freight?

A. I must know. You have me here to tell the difference between handling bulk freight and parcel freight.

Q. Have you explained as an expert what you mean by bulk freight and carload freight?

A. Bulk freight you set it out at the station. It is consigned to one firm. The way freight may be to a great many consignees, handled in parcels.

Q. We have been using the term "less than carload" as applied to a carload with freight that went to different consignees, package freight?

A. Assuming that the interstate freight is exactly the same as the State freight, that is, local, there can be no difference.

Q. In the cost of carrying the two kinds of freight?

3460 A. Yes, sir, because the freight is exactly on a parity.

Q. So all freight delivered from a local train or received; or all freight carried by a local train, would cost the company the same regardless of whether it was State or interstate?

A. Yes, sir.

Q. It is the kind of train it is carried on that regulates the cost of transportation?

A. Yes, sir.

Q. Then how would that affect your estimate as to the increased cost of State over interstate traffic, assuming that the trains carried the proportions we have assumed in this case?

A. It is a wrong assumption and I cannot assume it. If the Master wants me to do it, why——

Q. If there was a train that carried freight in those proportions, there would be no difference in the cost to the company of the carriage of the State freight as compared with the interstate freight, would there?

A. Everything being equal, there is no difference.

Q. How about through freight trains: You are assuming all through freight trains are carrying interstate freight, you said?

A. The Missouri Pacific Railroad has four classes of freight trains; Red Ball, which is the first preferred.

Q. What?

A. We give it preference. It is the first preferred. We have instructions to put nothing on those trains but through freight. Next, the Green Ball train, second preferred.

3461 Q. I don't think I asked you about that. I asked you if you did not assume that all the through freight in the classification you made was interstate freight?

A. All through freight interstate freight?

Q. Yes, when you divide the freight between through and way freight, you mean the through freight was interstate freight?

A. Yes, sir, but not absolutely every car.

Q. Not absolutely?

A. If you let me explain that I can answer the question.

Q. Do you or don't you assume that the through freight, as you designate it, means interstate freight?

A. Practically, yes sir.

Q. That is practically the effect of your answer?

A. Yes, sir.

Q. As a railroad man, do you know whether through freight trains carry a large part of the State traffic?

A. Not between St. Louis and Kansas City.

Q. Why not?

A. There is a second grade freight train called the "green ball" to designate them for convenience, with the office men, yard men, and train men, which carries a class of freight not considered as high as that in the red ball trains.

Q. But it is considered through freight, Mr. Clark?

A. Yes, sir, it is considered through freight. That train in the absence of through freight would carry State freight over the division from one division point to another.

Next, there is what is called in train service parlance "a
3462 drag." It is down on the time table as district freight or ordinary freight. These trains carry the next loaded freight of the lowest grade. They carry carloads in bulk to any stations that the locals cannot handle.

There is an intermediate between the green ball and the local freight trains. They would set out and pick up carloads anywhere.

Q. How would carload freight from St. Louis to Kansas City or from Kansas city to St. Louis be carried, on what train?

A. If the traffic department puts a red ball card on it it would go in the first preferred red ball train; and the green ball train next.

Q. It would be carried in the through train, all less than carload freight?

A. Yes, sir.

Q. You would class that as interstate freight?

A. St. Louis to Kansas City might be State freight.

Q. I understood you to say that the only classification you made, that all freight that went on through trains was practically interstate freight?

A. That practically carries it, yes, sir.

Q. Then you would not call that freight that went from St. Louis to Kansas City State freight on the division you made?

A. If it is from one station to another the law would call it State freight.

Q. Then why do you say that practically all that was carried on those through trains would be interstate freight? Do you mean the State carload freight would be so insignificant
3463 between those two points, that you could say that practically all the through business was interstate?

A. Practically covers a good deal. We might have a few cars in there and yet practically it is a through red ball train.

Q. You said the freight carried on the local trains would cost the company the same whether it was State or interstate: The freight carried on the through train would also cost the company the same whether it was State or interstate freight, provided it was carried on the same train?

A. Yes, sir.

Q. So any through freight shipped from Kansas City to St. Louis or St. Louis to Kansas City, there would be no greater cost to the company in the case of State freight than in the case of interstate freight?

A. They would not be any.

Q. Your opinion upon which you based the extra cost of the State freight as four or five times than what interstate freight cost, was applicable to way freight trains entirely, as compared with through trains, and assuming that the way train carried State freight, and the through trains carried interstate freight?

A. Yes, sir, because if we had no State freight we would not have any way trains.

Q. You would be able to receive or deliver freight that was destined to points outside of the State, or from points outside of the State and destined to stations on the Missouri Pacific line in the State?

3464 A. I said if we had no—outside?

Q. Take the case of a shipment of cattle from a point on the Missouri Pacific railroad, say Jefferson City to East St. Louis, that would be interstate freight, wouldn't it?

A. That is carried by the ordinary freight train.

Q. By the through freight train?

A. "ordinary" is marked on the time table; ordinary freight train.

Q. It would be a through shipment if it came from a division point?

A. Depends on what you call through.

Q. It would be an interstate shipment whether it was a through shipment or not?

A. Yes, sir.

Q. In order to handle that class of freight you would be com-

pelled to have such accommodations and conveniences at the stations as are made necessary for the loading and unloading of freight?

A. Yes, sir.

Q. And you would have to have those accommodations for interstate freight, regardless of the State freight, wouldn't you?

A. Yes, sir, if there was enough to justify it.

Q. There is interstate freight business done at every station on your line in Missouri, isn't there?

A. No, sir—I say no, sir, I don't know.

Q. Do you know anything about the investigation that was made by your company covering 88 stations during the month of
3465 October, 1905, and the freight handled at those stations?

A. No, sir.

Q. You don't know anything about that?

A. Only what I have heard here.

Redirect examination.

By Mr. FRANK HAGERMAN:

Q. You were interrupted two or three times when you were giving your reasons why State freight costs more than interstate, and I would ask you whether the difference in the haul cuts any figure: That is, State freight as a rule is a short haul as distinguished from the long haul for the interstate freight?

A. Yes, sir.

Q. That is an element that enters into it?

A. Yes, sir, that is an element.

Q. All State shipments necessarily have two terminals?

A. Yes, sir.

Q. That is not so with the interstate freight?

A. True.

Q. Except through Missouri?

Mr. KENNISH: I submit that the witness be permitted to answer the question.

The MASTER: The questions are leading.

Mr. HAGERMAN:

Q. Those are elements in addition to those you mentioned: Do they cut any figure?

A. The question of short haul cuts quite a figure. It emphasizes the fact that we must often haul an empty car to some small
3466 station, for a short haul small load, which we would not have to do a bit of on through business.

Q. On this short haul and way freight State business, in the cost of operations, the men, what is the comparison as to the price paid in the actual freight expenses, the management of it? Do you have any increased number of train men, for instance?

A. We have one more brakeman on the way freight than on the through freights.

Q. This question of extra hours of time cuts any figure, if so, what?

A. The way freight men are paid on higher scale, and their overtime and constructive mileage are all on the same higher scale.

Q. Do you or don't you understand that a through train, in the sense of speaking of a train that runs from one division to another, is a through train, can carry State as well as interstate business, and does it?

A. Over the division?

Q. Yes, over that division. Although the division is wholly in the State, there is interstate freight carried upon trains of that character?

A. Yes, sir.

Q. And so upon these way or local trains interstate freight is carried?

A. Yes, sir.

Q. You said something about, that given the same conditions, it would not cost any more to carry interstate than State freight:
3467 I assume that is true, but the conditions have all got to be alike?

A. That would be, if Chicago sends a car of merchandise to St. Louis to be distributed over the road, St. Louis has some more things to do, going to the same station.

Q. If it was the mileage, hauled in the same train, there is no more waste space and no more terminals and everything of that kind, and the same haul, of course the cost would be the same?

A. Yes, sir.

Q. Some emphasis was given to a question, implied by the question, at least, that there was some difference about it, where your estimate was four or five tons per mile: Was there any significance or did you merely give your opinion that it costs four or five times no matter how they want to take it?

A. Anyway they want to take it. I am not an accountant. I make the records for them to figure out. I know how you handle it.

Q. Figure it as you may to find out the cost of moving interstate freight, you think it costs four or five times on the whole, more to move State freight?

A. Yes, sir, and I can take an expert accountant and I think run it higher.

Q. What I want to know is, even though one particular kind of service may run up, if necessary to possibly ten or twelve times as much in cost as something else, what I want your opinion about is, taking everything into consideration, taking your knowledge
3468 upon that road, just how it is operated, just how you deal with State freight, and how you deal with interstate freight—and by interstate freight I mean one of the three classes that gets out of the State or comes from out to within the State, taking everything into consideration, how much more does it cost in your judgment to do the State freight business than to do the interstate freight business?

A. I am very well acquainted with this division and if I were free from the State business—well, I won't answer that.

Mr. KENNISH: Go ahead and answer it.

A. I would be freed from a class of freight that costs ten times as much to handle as State freight.

Mr. HAGERMAN:

Q. I presume there is some particular class of freight that costs ten times as much to handle as some other kinds. But the point I am getting at is, your estimate of four to five times, taking everything into consideration, is it applicable to the State freight as distinguished from the interstate?

A. I don't know that I understand you.

Q. Mr. Kennish asked you——

Mr. KENNISH: I suggest that counsel let the witness state for himself.

The MASTER: The examination is quite leading.

Mr. HAGERMAN:

Q. My question originally was, how much more it costs to do the State freight business as distinguished from the interstate: And you said four or five times more?

A. Yes, sir.

3469 Q. Now, Mr. Kennish construes your meaning to be that you only meant it cost four or five times more to do the way business than the through business between these divisional points?

A. Yes, sir, that is correct.

Q. Which is it you mean?

A. The way business. It costs four or five times—I am making a safe figure for myself though I can sit down and figure, as poor a figurer as I am, that it costs four or five times as much to handle this way business within the State, than it does both classes of through business, interstate.

Q. I want your opinion, taking everything into consideration, considering the fact that interstate freight may be carried upon way trains, and State traffic may be carried upon through trains, taking everything into consideration, and say how much more does it cost to do the State freight business than the interstate?

A. There is so little interstate business carried on the way freight trains that it does not reduce my ratio of four or five to one.

Q. So your ratio of four or five to one would apply to the freight question as I put it?

A. To the small amount of interstate freight that is carried on the way freight trains.

Recross-examination.

By Mr. KENNISH:

3470 Q. You said if you were freed from the State business you would be freed from a business that costs ten times as much to carry as the interstate business?

A. I think on what we could reduce the cost of the railroad terminal facilities, and some stations we would never stop at——

Q. I understand——

A. —let me answer that. That is what I am thinking about. All these things. I could handle the other so much cheaper that it would show that up that much worse.

Q. You mean by that, if you could get rid of that and had only interstate business, you would get rid of a business that costs from ten to twelve times as much as the through business?

A. That should not be taken exactly that way. But I could put enough more through business on the road to make the earnings show up well enough that it would put the local business that much higher.

Q. Isn't it a fact that every branch lines and every station you have on your entire mileage in Missouri furnishes you through freight? It might have to be carried to a division point, but from that division wouldn't you have through freight from every station on your road?

A. Some stations we would not stop at once in three months, and that I would handle with these ordinary freight trains.

Q. Suppose the station is about 20 or 30 miles beyond Sedalia and it had a carload of grain to go to Chicago: that car would probably be carried on a local train to Sedalia?

3471 A. Now it would.

Q. And then it would be taken into a through train and carried across the State in the through train?

A. Not necessarily.

Q. That is the usual way of carrying it, isn't it?

A. If we had a light local and the ordinary freight train had a full train, we would carry that to Jefferson City in the local.

Q. And then how would it go from Jefferson City?

A. Under exactly the same conditions.

Q. To St. Louis?

A. It might go in the local or the ordinary freight train.

Q. It is a fact that you get a great deal of your business, your through business, on local business from these branch lines than from the stations all along your road, isn't it?

A. Through business?

Q. Yes, both kinds of business?

A. I do not understand so.

Q. And don't you deliver both kinds of business at all these stations?

A. Some.

Q. So at these stations and the conveniences and the expenses the railroad company have been at in providing for the traffic handled there, is made necessary by reason of both classes of freight, and both classes of freight use them: That is true, isn't it?

3472 A. The through trains use them because they are there. If they were not there they would not be built for the use of the through business at a great many places.

Q. Even if there is more through business done at that station than local business?

A. I did not say anything about that.

Q. If it is a fact there is?

A. We are not throwing any business away, if there is enough business to justify it.

Q. If you get enough business any place, no matter whether it is through or state, you will put in facilities and go ahead and handle that business? It is not a question of whether it is interstate or State business with the company, is it?

A. No, sir.

Q. You have such conveniences and accommodations as are necessary to do the business, regardless of whether it is State or interstate?

A. We think we do.

Q. Mr. Hagerman asked you if you were basing your opinion as to the increased cost upon the ton mile theory: And you said you did not care what theory it was, that your opinion was that the State traffic would cost four to five times as much as interstate?

A. Yes, sir.

Q. What basis, or what theory was your opinion based upon?

A. I am a ton mile man.

Q. You believe in the ton mile?

A. Yes, sir.

Q. And when you said it cost four or five times, you
3473 meant freight handled on the way freight train would cost four times as much per ton per mile as freight handled on the through train: That is to say, to carry one ton a mile on the way freight train would cost four or five times as much as to carry a ton of freight on a through freight train one mile?

A. I did not say that.

Q. Isn't that what your answer means?

A. I did not say I applied the ton mile to this thing absolutely.

Q. You say you are a ton mile man?

A. I accept that because it is used so generally.

Q. Is there any other theory that you know of, that you can explain to the Master.

A. No, sir, I cannot explain it.

Q. The only theory you can point to and can be governed by in testifying as an expert, is the ton mile theory?

A. It is all theory; just as well have one as the other.

Q. You have no other?

A. I have no other.

Q. Than the ton mile, and that is what your testimony is based upon: Is that right?

A. Generally. But that is not fair in this proposition.

Q. You say you do not know any other basis or theory?

A. It is not up to me to produce a theory.

Q. If you have given an opinion, it must be based upon some theory or basis, isn't it? You say you are a ton mile man and do not know any other; consequently your theory must be
3474 based upon that theory, isn't it?

A. Yes, sir.

Redirect examination.

By Mr. HAGERMAN:

Q. What did you mean by saying that the ton mile basis is all a theory anyhow?

A. I do not think any man has ever been able to figure it down absolutely correct, what it costs to handle a ton a mile, and I will add right here, that there is a great difference in opinion as to what it costs to stop and start trains; and I omitted to say that these locals in my opinion is adding a great deal to the expense in its stopping and starting.

Q. That is, the ton mile basis is a theory because it is a system of averages, like any other basis would be?

A. Yes, sir.

Q. Do you or don't you limit your estimate to any ton mile basis?

A. I do not. There may be other ways of figuring it.

Q. Whatever that actual cost is, you multiply it by four or five?

A. That much anyway.

Q. And you would apply that rule, taking into consideration all your knowledge, as comparing interstate and State freight?

A. Yes, sir.

Recross-examination.

By Mr. KENNISH:

Q. You say there may be other ways, but you don't know
3475 of any?

A. There are lots of thing I don't know.

Q. Is that your position?

A. Other things of what?

Q. For figuring the cost of handling freight: You stated you did not know of any other theory than the ton mile, and you were a ton mile man?

A. I don't know of any other.

W. C. DODDRIDGE, recalled, testified as follows:

Direct examination.

By Mr. FRANK HAGERMAN:

Q. Something was said here, I did not understand your testimony that way, implying that you meant to say that if the percentage of freight, State and interstate, carried upon through trains was practically the same, that would make a difference in your estimate: Now, I wish you would explain what would be the significance to be attached to the fact that some freight might be carried upon one train and some upon another? Whether the mere fact of percentage would cut any important figure?

A. The percentage of the different kinds of freight carried upon a local train, whether local or interstate, in my judgment, cuts no figure in the proposition, for this reason: If interstate freight comes

within the State at any of the gateways, having destination
3476 at local stations within the State, and is carried under identically the same conditions surrounding it, in that case the cost of carrying the interstate freight and the State freight or local freight, would be the same.

Q. Let me see if I understand that: If interstate and State freight were carried under exactly the same conditions?

A. Under identically the same conditions, it would be the same less the difference in the cost perhaps of one terminal. The local freight advances in cost of carriage arises from other causes than the fact that there is a certain percentage of interstate freight carried in the same train. To make it clear, if I may be permitted to explain, when I was managing the Missouri Pacific Railroad we carried very little through freight in way trains. The rule was to do the business, or, rather, for those trains to carry no freight or cars other than those required to perform the service on the division over which the train ran, making the tonnage of the train comparatively very light.

The reason why this was done in that way was to give this train an opportunity by use of light engines and a fast rate of speed between stations, to make its time and get over the road within the limit of the day's work of the train crew.

It seems that this system, as shown by the figures which I testified to this morning, on the Missouri Pacific, has been changed, and it is now the custom to place in those trains a certain amount of
3477 tonnage of interstate or through freight, for the purpose of building up the load, upon the theory of thereby reducing the cost per ton mile, without reference to the overtime and other disadvantages made by the train crew, in consequence of this heavy load.

Q. Take one illustration that is in my mind: St. Louis to Jefferson City. That I believe you spoke of as a division?

A. Yes sir.

Q. A shipment would start from St. Louis to go to Kansas City as a through shipment, in the sense of going through that division and the next one, until it reached Kansas City: Suppose you were going to ship from St. Louis to Bagnell, it might go as a through shipment as far as Jefferson City, and then how would it go on down to Bagnell?

A. It would go to Bagnell on the local train from Jefferson City.

Q. As way stuff?

A. Yes sir, way freight.

Q. So that given the same fact without anything more, the mere fact that the stuff goes on the through or on the way train, would not exactly mean that the cost of handling it was just the same?

A. No sir.

Recross-examination.

By Mr. KENNISH:

Q. I understood you to say that if way freight, interstate, was carried under the same conditions as State way freight, less than car-

load, it would cost the same, outside the question of terminals?

3478 A. Under identically the same conditions the actual cost of handling, from a purely mechanical and physical standpoi-t, would be no more. But the shortening up of the terminals, immediately doubles or triples the cost.

Q. That would be the only condition that could affect the question of cost on the matter of less than carload freight handled on local trains?

A. Under identically the same conditions that would be the only difference.

Q. The only condition would be the question of terminals and length of haul that could alter the cost of carriage of such freight?

A. Not altogether, Mr. Kennish, because if the tonnage is placed on the local trains, the local train per mile costs more per mile to run than the through train.

I testified that there was a difference of cost of running the two classes of train of forty per cent in the labor.

Q. But we are considering now only the local trains.

A. I say the local train itself per mile run costs in my judgment 40 per cent more than a through train, and the reasons for that are, first, the crew consists of more men.

Q. You have gone over that and we know about that.

A. Very well, I won't go over it again.

Q. Wouldn't that increased cost attached to less than carload interstate freight or carload interstate freight, the same as to State freight except as to the matter of terminals?

A. Under identically the same road conditions, of course

3479 there would not be any difference in the cost.

Q. You have not named any other conditions except the question of terminals. The freight is carried on the same train?

A. I have not named any other conditions because I have not taken into account the character of the freight.

Mr. HAGERMAN:

Q. Or the space occupied?

A. Yes sir, or any of those things. I refer now to all the surrounding conditions being the same, there would be no difference in the cost, the cost would be the same.

Mr. HAGERMAN:

Q. With the exception of the things you stated?

A. Yes sir.

Mr. KENNISH: So as to know what you include in the term, "conditions," let us assume this same kind of freight, less than carload, the same kind and the same quantity, and one package is interstate and one is State, and they are carried on the same train in the same car: What would be the difference in the cost to the company in the carriage of those two classes of freight, except the question of the terminal cost?

A. Under your question, I think there would be no difference.

Q. On the question of the terminals, Mr. Doodridge, isn't it a fact that that does not apply in the same manner when you consider less than carload freight as it does in carload freight, whether State or interstate, because interstate less than carload freight is
3480 handled by the terminals in St. Louis, if it comes into St. Louis from an adjoining State, isn't it?

A. The question of two terminals affects the cost of transportation mainly in the difference in the distance.

Q. You said State freight always had two terminals and I wish to call your attention to the fact that interstate, if it is true, less than carload, also has two terminals, where it would go into St. Louis and be shipped out of St. Louis on a local train?

A. Yes sir, and under those circumstances the conditions would be equal.

Q. Even so far as the terminals is concerned?

A. Yes sir, so far as terminals are concerned.

But to make myself clear on the shortness of the haul, in the matter of increasing the rate of cost, I will say that assuming the division to be 100 miles long, a carload of freight to a number of consignees to be distributed on that 100 miles, practically costs the same on each of the short points as it would to haul the car with the load to haul 100 miles less; simply the quantity of fuel saved by the lightening of the load going that distance. The average cost would be the same and you might just as well haul the car 100 miles, because of the disproportionate relation of the weight of the load to the weight of the car.

Q. But that cost would be the same whether the less than carload freight is State or interstate?

A. In the case as you put it, there is a distinction there as between interstate and State freight, without any practical
3481 difference.

Q. In the matter of carload freight, in the instance Mr. Hagerman referred to, was carload freight going from St. Louis to Bagnell, which would be carried on a through train to Jefferson City and from Jefferson City to its destination on the local train, there would be no increased cost in the carriage of that freight so far as Jefferson City, except on the matter of terminal costs, would there, Mr. Doddridge?

A. The terminal cost at Jefferson City, the switching out of the car there and the increased cost of handling it locally on that branch.

Q. But up to Jefferson City?

A. Up to Jefferson City you would have no increased cost until you set the car out.

Q. That would be a terminal cost?

A. That would be an intermediate terminal in that case at Jefferson City. There would be the cost of setting the car out there and delay to the car, perhaps. If it came in during the night, it would lay there until morning.

Q. That would all be what you call terminal cost?

A. It is one of those accumulated things that go to make up added cost of doing local business.

Q. I want to ask you one question with reference to your testimony this morning, and that is, on the matter of percentage of empty car mileage as disclosed by the investigation made by the Missouri Pacific Railroad, of the 88 stations, in which your
3482 statement showed that 77 percent of the empty car mileage was chargeable to State traffic and 23 per cent, I believe, to interstate?

A. Yes sir.

Q. Showing a greater percentage of empty car mileage that there was of the two classes of freight?

A. Yes sir.

Q. You stated that you gave instructions to those who had charge of that investigation to look into the question of the empty car mileage on the two classes of freight?

A. Yes sir.

Q. Do you know how they did or how did you instruct them to get at the matter of empty car mileage as applied to State freight and as applied to interstate freight: Just explain the method of obtaining the empty car mileage in each case?

A. In the first place I did not give any specific instructions as to method of getting at it. Of course I assumed they would go at it in the usual and customary way.

Q. What is that way?

A. The customary way would be this: Supposing you are operating 100 miles of railroad, hauling freight back and forth, freight moving in both directions. Of course there is always in the operation of a railroad a certain amount of empty car mileage to be made to meet the demands of the business, whatever it may be. Now take a period of a month, and take all the mileage on that division made by the local cars passing over it, add it all together, and you would have a certain amount of loaded car miles. Then, take the
3483 miles made by the empty cars, hauling them back and forth, and you would have another sum, representing the empty car mileage.

Q. I would rather you would confine yourself to one specific shipment in each class of freight, so as to show just what you considered the empty car mileage in each case?

A. That is what I am trying to get at. I wanted to first explain how the empty car mileage is made up and then as divided between the different classes of freight. It is a very simple matter.

Q. Did you include the car mileage there that would be incurred in taking the empty car from the division or from wherever it was standing, to the place where it was to be loaded? Was that part of the empty car mileage?

A. I take it, the empty car mileage was made up from the mileage run in the State of Missouri.

Q. Apply it to the particular shipment, say of State freight, at a certain place on your lines; say an order should come for a car to

ship a certain class of freight and that car was not at the station at the time, it would have to be hauled to the station?

A. Yes sir. But car mileage is never kept that way. The percentage of loaded to empty car mileage is never kept that way. That would be an impracticable way to go about it.

Q. Is there any record kept on the basis of State and interstate empty car mileage?

A. Not that I know of.

3484 Q. Then how do you get at the empty car mileage, if there is no record of it?

A. I assume that they take the total number of loads of State business, the total number of loads of interstate business, and then divide the total empty car mileage by these per cents arrived at in that way. I presume that was the way it was ascertained.

Q. That would give some per cent as loaded cars: That would not give the increase of percentage of empty cars on State business?

A. Yes sir, it would, because they would consider only loads that were shipped out. They would not consider the loads that came in.

Q. They would not consider any empty car mileage that the company had to haul empty cars for loading interstate freight that came into the State of Missouri?

A. No sir. It is divided up. We give you 23 per cent of empty car mileage as applied to interstate business.

Q. Say an empty car was hauled to another division outside of this State, and loaded, and its destination was in the State of Missouri: The empty car mileage of that car from there to the point of loading would not be shown in these records?

A. No sir.

Q. It would not be considered?

A. No sir.

Cross-examination, continued.

By Mr. LADD:

3485 Q. Suppose the case of a shipment from Cincinnati, a carload, consigned to an individual in Kansas City, that comes over the Southern Railway and the Baltimore, Ohio and South Western, we will say from Cincinnati to East St. Louis, doesn't it, in the first place?

A. Yes sir.

Q. It is intended to go over your road from St. Louis to Kansas City?

A. Yes sir.

Q. How does it get across the Mississippi at St. Louis?

A. There are two ways of getting it across the river; one by the Wiggins Ferry Company and one by the bridge. Naturally it would go across the bridge.

Q. Who would bring this carload across the bridge?

A. The Terminal Railroad Association?

Q. That full carload would not break bulk in St. Louis, but would go right on to Kansas City in the same car?

A. Generally speaking it would go through, unless there was some surplus Missouri Pacific cars here, by which the Missouri Pacific thought it was to their interest to transfer it. Sometimes those cars are transferred, but that would be a question of local conditions.

Q. You mean sometimes that car would break bulk and its contents would be taken out and loaded into a Missouri Pacific car?

A. Yes sir.

Q. But ordinarily it would go through?

A. Ordinarily it would go through, if it were merchandise
3486 and some class of freight and would be damaged in handling, the probabilities are it would go through.

Q. You state usually it would be brought across the river by the Terminal Association?

A. Yes sir.

Q. Where would it be left by the Terminal Railroad Association?

A. It would be set on their transfer track, where the Missouri Pacific switch engine would take hold of it and place it in their train.

Q. It would be place- on the transfer track of what is called the Terminal Railroad Association: Is that right?

A. Yes sir.

Q. And a Missouri Pacific engine would be sent to that transfer track and remove it to the place where the company wanted to put it on its train going west: Is that right?

A. Yes sir, that is right.

Q. How far would the Missouri Pacific engine haul that car in order to get the car where it wanted it to put it into its train?

A. In the case of the Missouri Pacific yard and the terminal yard, they lie side by side, parallel tracks. I do not know exactly where the transfer track as between the terminal and the Missouri Pacific Railroad is located, but probably it is between the two yards. It is in an assigned track for that purpose. A track as between the railroad companies they designate as the transfer track.

Q. Some one spoke of it here in another case as neutral ground?

3487 A. It is a neutral track.

Q. It is for the deposit of cars that are to be taken away by all of the companies going west?

A. Yes sir, and it is pulled usually at stated intervals by the roads.

Q. How far would that Missouri Pacific engine haul that car in order to get it where it wanted it?

A. I should say a mile would cover the movement in that case.

Q. To get it up to where it wanted to put it in the train going west?

A. Yes sir, to switch it.

Q. Suppose on the same day there was a St. Louis merchant who wanted to ship a carload of the same weight, the same kind of goods, to another merchant in Kansas City: How do you accommodate him?

A. With the understanding that he, the merchant, is going to load the car himself, an empty would be placed on what is called the team track, a set of tracks that are built and assigned to that purpose. There he would be given a car to load on that track.

Q. The Missouri Pacific engine would take this empty car on to the team track?

A. It would set the car on the team track and after it was loaded they would go there and get it.

Q. If this happened on the same day, and both cars, the one which you had received from Cincinnati and the one which the St. Louis merchant had loaded, were both ready to go, you would put them in the same train, wouldn't you?

3488 A. Yes sir, if they contained the same kind of freight, if there would be no distinction, red ball and green ball.

Q. If both contained the same class of freight?

A. Yes sir, both in the same train.

Q. And after that St. Louis car was loaded, an engine would take it to where this western train was to be made up, and take it to substantially the same place where the Cincinnati car stood, would they?

A. Yes sir.

Q. Now, Mr. Doddridge, after those two cars of freight, the one interstate and the one State, are put into the same train, as you say they would be under the circumstances, the expense to the company from that time on until they are delivered to the respective consignees in Kansas City, is precisely the same, isn't it?

A. Yes sir.

The further hearing in this case is adjourned until Monday, January 23, 1907, at 10 o'clock in the forenoon, at which time and place all the parties interested are required to attend.

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3490 ST. LOUIS, MISSOURI, *January* 26, 1907.

On the 26th. day of January, 1907, at the request of Mr. Frank Hagerman, Counsel for the Complainant, by long distance telephone to Hannibal, Missouri, joined in by Mr. S. B. Ladd, Counsel for the Defendant, the further hearing is continued to the 31st day of January, 1907, instead of the 28th day of January, 1907.

ST. LOUIS, MO., *January* 31*st*, 1907.

Met pursuant to adjournment as above, on Thursday, Januar- 31st, 1907, at ten o'clock in the forenoon, in the Federal Building, in the city of St. Louis, Missouri.

Present: Mr. F. L. Schofield, Special Master.

Messrs. F. L. Clardy and H. Hagerman appeared in behalf of the Complainant.

Messrs. S. B. Ladd and John Kennish appeared in behalf of the Defendant.

The following proceedings were had:

Cross-examination of F. P. JOHNSON.

By Mr. S. B. LADD:

Q. What did you say your position was with the Missouri Pacific Railway Company?

A. Clerk in the General Auditor's office, the Accounting Department.

Q. Who is the General Auditor?

A. Mr. S. B. Schuyler.

Q. Are there any assistant auditors?

3491 A. One assistant general auditor, Mr. E. M. Curtis; then we have Auditors in the various departments. We have an Auditor of passenger receipts; an Auditor of freight receipts; and an auditor of disbursements.

Q. Who is the auditor of freight receipts?

A. Mr. W. Q. Morcom.

Q. Who is the auditor of freight disbursements?

A. The auditor of disbursements, both freight and passenger, is Mr. E. H. Lycett.

Q. Are there any other auditors or assistant auditors, or auditors in departments?

A. There are none I know of except the traveling train auditors.

Q. In whose office are you a clerk?

A. In Mr. Schuyler's.

Q. He is the General Auditor?

A. Yes sir.

Q. In whose office is Mr. Roth, who was a witness here before?

A. Mr. Roth is in Mr. Schuyler's office.

Q. He is a clerk, too?

A. Yes sir.

Q. When you were on the stand before, I asked you to give me the ratio of freight expenses to freight earnings in Missouri on all freight, state and interstate, for each of the years 1904 and 1905: Can you do that now?

A. The per cent of operating expense to earnings on the freight business, state and interstate, in the State of Missouri

3492 was 76.19, for the year 1904.

Q. And for 1905?

A. For 1905 the percent was 74.73.

The MASTER:

Q. Do I understand that those percentages represent the relation between freight receipts and freight expenses? Is that the idea?

Mr. LADD: That is the question.

A. Yes sir.

The MASTER:

Q. Did you have compiled tables? Wouldn't it be well enough to introduce them as an Exhibit?

Q. Have you prepared a statement showing these facts?

A. Yes sir.

Q. Will you just hand it to the stenographer and have it marked?

A. Yes sir.

The paper referred to is marked Complainant's Exhibit 10.

Exhibit 10 is in the words and figures following, to-wit:

3493 Q. When you say these percentages are 76.19 and 74.73, respectively, you exclude in making that calculation taxes, rentals and interest, from the expenses?

A. Yes sir, interest on the bonded indebtedness, fixed charges.

Q. Your last figures here show 89.66 for 1904, and 88.71 for 1905, and in reaching that result you include the taxes, rental and interest, don't you?

A. Yes sir.

Mr. HAGERMAN:

Q. As part of the freight expenses?

A. Yes sir.

Mr. LADD:

Q. When you were here before, you referred to page 2 of Exhibit 5, and particularly to the last paragraph of it reading in this way: "Switching, demurrage and storage, services incidental to freight traffic, show net receipts of money paid out to foreign roads having been deducted from gross receipts", and you said in connection with that, that under the system in vogue in your office prior to July 1, 1905, switching would have been charged to expenses, but that now, in order to make the statements uniform you have eliminated all your switching charges from these figures submitted as expenses in the State of Missouri:

Now, I suppose you mean by that, that you have eliminated all the switching charges that you paid to other roads don't you?

A. These switching charges that were paid to other roads were charged to expenses, prior to the first of July. This last paragraph refers to our earnings, as I understand it, shown as incidental

3494 to the freight business.

Q. Your language was this, and I do not know whether it was to be taken in the broader sense than I understood it or not: "Now in order to make the statements uniform we had eliminated all our switching charges from our figures": Do you mean the switching charges you have paid to other roads?

A. Switching charges we have paid to foreign roads is an item we have eliminated from our expenses.

Mr. HAGERMAN:

Q. They turn in as earnings only the net.

A. This last paragraph refers to the earnings; we show on the earnings and expenses.

Mr. LADD:

Q. But it is still true that the expense of switching done by yourself is charged in the expenses?

A. Oh, yes.

Q. I thought that was what you meant. But it was a little ambiguous on this point.

Mr. HAGERMAN: He says also on page 228 that he turned in what they earned net. They just took the net result and put it to earnings, so in the long run it makes no difference in the figures.

Mr. LADD: There is no objection at all. That does not enter into the matter.

The MASTER: It is a mere matter of bookkeeping, except that in an

investigation of this sort it is proper to inquire whether the expenses when once ascertained are chargeable to the correct account in determining the particular profit made.

3495 Mr. LADD: I am not criticising the course that has been pursued.

Mr. HAGERMAN: I only wanted to know that we all understood it alike.

Mr. LADD:

Q. You have an accounting division which includes the Kansas City terminal?

A. We have had that accounting division since the first of July 1905. Prior to that time it was all part of what we call our Kansas City division No. 14, running from Sedalia to Kansas City, and including all of the Kansas City terminals.

Q. Since July 1905 you have had a much smaller accounting division, which does include the Kansas City terminals?

A. Yes sir.

Mr. HAGERMAN:

Q. What is that division called?

A. The Kansas City terminal division.

Mr. LADD:

Q. Will you tell the Court just what that does include?

A. It includes the mileage from Rock Creek Junction, east of Kansas City, to the Missouri and Kansas state line, 7.36 miles.

It also includes the line from the Missouri and Kansas state line, to Ramapo, Kansas.

Q. Where is Ramapo?

A. Four and one half miles west of Kansas City on the main line to Omaha. The exact mileage of that line is 4.56 miles.

Q. Proceed.

A. It also includes the line from Kansas City, Southwest
3496 Junction, Missouri, to Leeds, Missouri, five miles. The total mileage of the division is 16.92 miles.

Q. How many miles of that is in Missouri?

A. 12.36 miles.

Q. And how much in Kansas?

A. 4.56 miles.

Q. In making that mileage you took just one track, didn't you?

A. I took the main line, single track.

Q. That is to say, in Leeds, Missouri, from Kansas City, Southwestern Missouri, and from Rock Creek Junction to the Missouri and Kansas state line, and from the Missouri Kansas state line to Ramapo, Kansas is 16.92 miles?

A. Yes sir.

Q. That is all in what you call the Kansas City terminal division?

A. Yes sir.

Q. What were the freight expenses of the terminal division for the last half of the calendar year 1905?

A. Freight expenses $391,823.83?
Q. What were the passenger expenses?
A. $29,254.38.
Q. Making a total of how much?
A. $421,078.21.
Q. In those figures are included, I believe, every kind of expense, maintenance of way and structures, maintenance of equipment, conducting transportation and general expenses; that includes everything, doesn't it?—does that include taxes, and rental and
3497 interest?
A. No sir. That is an operating expense.
Q. It includes everything except those three items I have mentioned?
A. It includes everything charged to that division. I mean by that, we charge no train expense to the Kansas City terminal division.
Q. What is the Conducting Transportation?
A. It includes train expense, if any is charged, but we make no charge for that account. In other words, a train running from Omaha to the Union Depot at Kansas City, would be charged altogether to the Omaha division. That is, the wages of the train crew. We consider that the terminals at Kansas City is a shifting proposition, and any train expense incurred within the mileage shown as the Kansas City terminals is charged to the division to which the train belongs. Any tonnage in that train is credited to the division to which the train belongs.
Q. Suppose you have a train of through freight from St. Louis to the Missouri and Kansas state line, is any part of the charge of operating that train put into this account?
A. No sir.
Q. None at all?
A. No sir.
Q. Then what is included in conducting transportation; you have an item of $315,419.23 for freight conducting transportation?
A. That would include all the expense account, except the train service, that are classified as conducting transportation.

3498 Mr. HAGERMAN:

Q. By train service you mean trains running out to and from Kansas City beyond those points?
A. I am referring to the train expense there.
Q. Please look at page 47 of the Missouri Pacific Annual report for the year ending June 30, 1906, and you will see a large number of items there under the head of "Conducting Transportation"; please state what items mentioned in that long list under the head of "Conducting Transportation" are included in this $315,419.23 for conducting transportation in the Kansas City terminal division?
A. You want the names of the accounts?
Q. I would like them.
A. Station Service, Passenger.
Q. That is the first?
A. Yes sir.

Q. You notice, don't you, that that account appears in the preceding column?

A. That account is "Transportation—Traffic". In the first column of that page. No charge is made to the Kansas City terminals for traffic expenses.

Q. Does not some of that come in under the head of "General Expenses?"

A. No sir. "General Expenses" is an entirely separate heading.

Q. Go on.

A. Under the head of "Conducting Transportation—Operation", in the account included in our Kansas City terminal expenses, the first account would be "Conducting Transportation, Passenger".

3499 Q. Leave out any item classified as passenger, because we do not care anything about that. Pick out those items included in the $315,419.23.

A. "Station Service—Freight"; a proportion of "Station Service—Combined"; a proportion of "Station Supplies"; "Stock Yards and Elevators—Operation of"; "Yard Supervision"; "Yard Men"; "Yard Engine Men and Firemen"; "Yard Locomotives—Fuel for"; "Fuel Station,—Operation of."

Q. Where is that?

A. I have skipped several items and it is further down the page.

Q. Go on.

A. "Road Engine man and Fire man—Freight."

Q. Is that included in part?

A. No sir.

Q. What else have you skipped?

A. "Train man—Freight." I have skipped those "Road Locomotives—Fuel for"—Freight." "Freight Cars—Lubrication of." "Other Train Supplies—Freight."

Now I should include "Engine house man," a proportion of that expense. A proportion of "Fuel Station—operation of." "Locomotives—water supply for." "Signal Man."

Q. You omitted a few there?

A. "Locomotives—stores for," and "Locomotive—other supplies for" are not charged to the Kansas City terminal expenses.

Q. Why should not the stores for locomotives at those terminals be classed as terminal expenses?

A. Because in our system of accounting we take the stores
3500 and supplies furnished to locomotives and pro rate the entire expense between the various accounting divisions, on a train mileage basis. We allow no train mileage to either the St. Louis or the Kansas City terminals, and for that reason they get no proportion of that expense.

Q. Then I understand you to say that the locomotives which simply do the terminal service, and never go out on the road at all,—that the stores for those locomotives, no part of it, is included in those terminal expenses?

A. Yes sir. That is it.

Q. Where does it go?

A. It goes to the road service altogether.
O. Although they are not used in road service at all?
A. Although they are not used in road service. On the theory that the proportion would be too small to consider, from an operating standpoint.
Q. You included "locomotives—water for"?
A. I included that.
Q. And "locomotives—stores for"?
A. I excluded that.
Q. What else?
A. "Locomotives—supplies for."
Q. You excluded that?
A. Yes sir.
Q. For the same reason given above?
A. Yes sir.
Q. Go on.

A. I include a proportion of the expense of "Signal man,"
3501 also "Highway Crossing Watchman," "Policeman," "Signal supplies," "Highway Crossing Supplies," "Wreck-Clearing," "Injuries to Persons," "Loss and Damage." I omit the next two accounts, "Car Service," and "Hire of equipment." We include "Rent of Buildings and other Property," and "Superintendence—Transportation." We would include the next two accounts if we had any expense there, but as a matter of fact we have not. They are "Floating Equipment—operation of," and "Elevation and Long shore Labor." We omit the next one "Dining Cars." We include a proportion of "Stationery and Printing—Transportation." Also "Incidentals," also a proportion of "Operation of Joint Tracks, Yards and Terminals" also a proportion of "Flood Damages."
Q. If there are any?
A. Yes sir, if there are any.
Q. You have tabulated the mileage of those accounting divisions, and the expenses of it in a statement, haven't you?
A. Yes sir.

Mr. LADD: I will offer that statement in evidence and ask that same be marked Exhibit 11.

The paper referred to is in the words and figures following, to-wit:

3502 Mr. HAGERMAN:

Q. That is the statement you referred to when you referred to the mileage of the Rock Creek Junction?
You have already said that the mileage as shown in this statement of this terminal division was single track mileage, simply the distance between certain points shown in the statement. Now what is the actual mileage of all the tracks in that division? I suppose at some parts of that accounting division you have a great number of parallel tracks; that is, you have a great many more than single tracks.
A. You are referring to side tracks?
Q. All kinds of tracks.

A. I doubt if we have any double tracks at the Kansas City terminals at all.

Q. I do not mean double tracks in the technical sense of the term, but all the tracks.

A. I have a statement here which will show the side track mileage of the Kansas City terminal.

The MASTER:

Q. And that side-track mileage added to the 16.92 would give the total mileage, as I understand it.

A. Yes sir.

In addition to the main line mileage of 16.92 we have on the Missouri side, side-track amounting to 62.97 miles and on the Kansas side we have industry tracks amounting to 12.34 miles. And in addition to that we have company tracks or tracks around our Cypress shop, upon which we store our cars and equipment for repairs. The mileage of those tracks is 18.56 miles. Or, a total side-track mileage of 93.87 miles.

Mr. HAGERMAN:

3503 Q. By "industrial tracks" do you mean the tracks which the industries put in themselves, and you use; or tracks you put in?

A. Our own tracks.

Q. Some of the roads put them in under contract by which the owner furnishes the right-of-way and owns the track?

A. This statement was furnished by our engineer and covers only our own tracks.

Q. By "industry tracks" you mean side-tracks leading to private industries, like a packing house, something like that?

A. Yes sir. The "company tracks" I mentioned there is the company track for storage purposes, for holding cars for repairs.

Q. What is the total mileage shown in the statement?

A. 93.87 miles.

Q. How much of that is in Missouri?

A. 62.97.

Q. And how much in Kansas?

A. Both classes of tracks, company and industry tracks, you mean?

Q. 93.87 includes both classes?

A. Yes sir.

Q. Well?

A. 30.90.

Q. Have you included in your testimony here all spur tracks?

A. So far as I know it does; it includes all the tracks we have in those terminals.

Q. And all warehouse tracks?

A. Yes sir, all warehouse tracks.

3504 Q. Would we be more certain of that then we are now, if the engineer were to come here and tell us?

A. I cannot say as to that. It is a statement from his records. He is the only man who keeps these records.

Q. I suppose so. You would have to go to his office to get that information?
A. Yes sir.

Mr. HAGERMAN:

Q. Is this one of the statements the other side asked for?
A. Yes sir.
Q. Have you given them a copy so they could check it up?
A. No sir. It didn't come to me until January 29th.

Mr. LADD:

Q. We find in Exhibit 11, the last item, the mileage there is Kansas City and Northwestern Junction to Leeds, Missouri: where is the Kansas City and Northwestern Junction?
A. Do you want the distance from Kansas City?
Q. It is pretty hard to say that. It is east of Kansas City?
A. Yes sir, it is east of Kansas City.

Mr. HAGERMAN:

Q. Rather southeast, isn't it? It is east on the main line. It is perhaps a little southeast.

Mr. LADD:

Q. What I want is, when you branch out from the main line, you run south; but it comes out on the eastern side of the city?
A. The junction is right on the main line.
Q. The line there is practically east and west?
3505 A. Practically east and west, the main line is.
Q. And this junction you speak of is the junction of the branch which runs south?
A. The Lexington Southern division to Joplin.
Q. The junction with the main line?
A. I will correct that. It is the line that runs out to Kansas. The Kansas Southwestern Junction is on the main line between Kansas City and Independence.

Mr. HAGERMAN:

Q. The main line runs west?
A. Yes sir.
Q. And it is southwest to Leeds?

Mr. LADD:

Q. What you mean by that junction is, where that branch strikes the main line?
A. Yes sir.
Q. And that branch runs in a general southerly direction to Leeds?
A. Yes sir.
Q. To Leeds?
A. Yes sir.
Q. And away beyond Leeds?
A. Yes sir.

Q. According to this statement it is from that Junction around to Leeds?

A. Yes sir.

Q. How many tracks have you between that junction point and Leeds?

A. I cannot say.

Q. Isn't it an ordinary, single track road?

3506 A. I presume it is a single track road.

Q. There is not anything between Kansas City Junction and Leeds in the nature of terminals, is there?

A. No sir.

Q. Just like any other part of your road through the country?

A. No sir.

Mr. HAGERMAN:

Q. There are terminals all out through those Blue Mountains, Sheffield, etc.?

A. The terminal expense there would be very small.

Q. I would like to know how much track there is between Southwestern Junction?

The MASTER:

Q. We can ascertain that and refer to it hereafter.

(Mr. Johnson is to get up a statement showing trackage.)

Mr. HAGERMAN:

Q. Included in that statement what would be covered by the point of junction, the terminals, then the town of Sheffield, the town of Centropolis, the brick works there. As I understand it, there is something more than simply a country road running through those bottoms there.

That is a fact, isn't it?

A. Yes sir.

Mr. LADD:

Q. Practically the whole city of Kansas City, Missouri, lies between the State line and what you call the Kansas City, Southwestern Junction, doesn't it?

A. Yes sir.

3507 Mr. HAGERMAN:

Q. In order to save asking a lot of questions about it, wouldn't it be safe to ask if the whole of Kansas City lies between the Blue River, the Missouri river and the State line?

Mr. LADD: No sir, that is not what I meant at all.

Q. There is considerable distance, isn't there, between what you call Kansas City and the Southwestern Junction, and the State line, in which there is only a single or possibly two tracks?

A. You are referring now to the main line?

Q. Yes.

A. Yes.

Q. That part of your main line which runs under the bluff, right at Kansas City, practically there are not more than two tracks there; isn't that true, between the bluff and the river? For how long a distance should you say on the river front would that condition prevail, where there would be only one or two tracks?

A. I am hardly in a position to answer that, Mr. Ladd. I am not familiar with the tracks in Kansas City.

Q. The engineer would know, would he?

A. Yes sir.

Q. Your Cypress yards are entirely in Kansas, aren't they?

A. Yes sir.

Q. And they are part of those terminals?

A. The mileage of these tracks in the Cypress yards is included in the mileage of the Kansas City terminals. Now we are to
3508 obtain a statement to find out just what proportion, if any, of the expense of the Cypress yards is included in the Kansas City terminal. That ought to be ready this afternoon.

Q. You have included all the mileage of the Cypress yards in this 30.91 you gave me this morning?

A. Yes sir, I have given you those figures of 18.56 miles of our tracks in the Cypress yards.

Q. I think you said when you were here before that you could not give, except for the last half of 1905, the amount of the expense of that Kansas City terminal division because you do not keep the books in that way; how do you arrive, in making up your statement for this case, for the first half of 1905 and whole of 1904, on the same basis. You took the last half of 1905 as a basis upon which to make it up?

A. No sir.

Q. What did you do?

A. For the 18 months prior to 1905 the expenses of the Kansas City terminals were charged to the division between Sedalia and Kansas City. And we have taken the entire division as a Missouri expense.

Mr. HAGERMAN: Let me see if I understand that: Kansas City to Sedalia, Mo., would be a Missouri division?

A. Yes sir, a Missouri division.

Q. And you would say that the entire expenses of the Kan-
3509 sas City terminal is charged as the expenses of that division?

A. Yes sir.

Mr. LADD:

Q. Do you know what the expense of those terminals up at Kansas City were for the first half of 1905 and the whole of 1904?

A. No sir, there is no way of getting at that, without going to the records of each individual entry.

Mr. HAGERMAN:

Q. That is, you did not make any separation of it?

A. No sir. The instructions were to charge everything to this division between Sedalia and Kansas City, everything that occurred at the terminals.

Q. Mr. Ladd would like to know, and so would I, if you keep your books so you could pick out what those expenses were?

A. We would have to go to our books and pick out each individual entry, and if we had any doubts about it, run it down. A good deal of that expense is reported to the Auditor's office by the superintendents. We would have to go to their records.

Mr. LADD:

Q. Whatever expense was incurred up there at those Kansas City terminals, including that part on the Kansas City of the line, and the Missouri side of the line, were charged in 1904 and 1905, for the whole of both of those years, to the Missouri part of the system?

A. Yes sir, to the Missouri part of the system.

Q. And 95 per cent of that was charged to freight?

A. 95 per cent of the common expense.

3510 Q. It was all charged to Missouri was it?

A. Yes, sir.

Q. And for the last six months of 1905 that freight expense up there was $391,823.83: Is that right?

A. Yes, sir.

The MASTER:

Q. Let me see if I understand that: In making up the statement, Exhibit 5, you charge to the Missouri part of the system, for the years 1904 and 1905, all the expenses of the Kansas City terminals?

A. Yes, sir.

Q. For the whole of those years you charge the whole of the Kansas City terminals, in Exhibit 5?

A. For the full two years, yes, sir.

Q. And this statement you make now in respect of the last half of 1905 is, I take it, simply by way of illustration; but does not go into Exhibit 5?

A. No, sir, this statement Exhibit 11 is part of the expenses that is included in Exhibit 5.

Q. But it is all charged in Exhibit 5 to the Missouri part of the system?

A. Yes, sir.

Mr. HAGERMAN: Let me see if I understand, because it will save trouble if we all understand it alike. All expenses of the Kansas City terminals, however the account was kept before, went into the Missouri expenses for those calendar years, as shown by Exhibit 5?

A. Yes, sir.

Q. Up to July 1, 1905, the way the books of account had
3511 been kept, the Kansas City terminal expense went into the divisional expense between Sedalia and Kansas City?

A. Yes, sir.

Q. But beginning with July 1, 1905, they made a separate account of the Kansas City terminal expenses, covering the territory that is described in this Exhibit 11?

A. Yes, sir.

The MASTER:

Q. It was kept as a separate account, then, but went into Exhibit 5 as a solid charge?

A. Yes, sir, that is it.

Mr. LADD:

Q. In your direct testimony you testified in this way "We take the entire expense of the Accounting Division and divide it between the two States through which it runs, and divide it on practically a mileage basis": You do that, do you?

A. That is on the Accounting Division that runs through more than one State, yes, sir.

Q. You testified, according to the report handed me here, on your direct examination, in this way: "Our method for determining the expense chargeable to the local busines in the State has been to divide the total freight expenses on an earnings basis, but before arriving at these percentages we applied, or rather we added 50 per cent to our local earnings in order to add 50 per cent to the cost of doing the local business?

Q. "And that 50 per cent thus added to the local earnings in order to work out that example represents about how much extra
3512 cost for doing the State over the inter-state business?

Answer. Off-hand I believe it amounts to about six times the cost of the inter-state business."

Mr. HAGERMAN: That is a matter he corrected, isn't it?

Mr. LADD: You again said this "It is my opinion that the cost of handling local freight is several times greater than the cost of handling inter-state freight, and applying 50 per cent of our local earnings it would give us about six times the cost."

What did you mean by six times?

"Applying 50 per cent to our local earnings it would give us six times the cost": What did you mean by that?

A. Has not that been corrected?

Q. Just answer my question. That is Mr. Hagerman's suggestion that it was corrected.

A. What I did not mean by that was, that it would not represent six times the cost of carrying all local business. I believe the question had been asked just prior to that, what in my opinion was the extra cost for carrying State freight, and based on the testimony I had heard in this case, it would run from two to seven times on local business as compared with inter-state business. What I meant to say in answer to that question was, that probably it would be six times as much on the same class of freight.

Q. You say "It is my opinion that the cost of handling local freight is several times greater than the cost of handling inter-state freight, and applying 50 per cent of our local earnings it
3513 would give us about six times the cost": What do you mean by that?

A. I meant it would give us about six times the cost on some classes of local freight. But I did not mean to say or answer the

opinion that it would be six times the cost of all classes of local freight.

Q. But you applied the 50 per cent to all kinds of freight?

A. Yes, sir.

Q. And you meant to say that applying 50 per cent it would give six times the cost on some kinds of freight?

A. Yes, sir, on some kinds of freight.

Q. Some kinds of freight?

A. Yes, sir.

Q. Here is another question, which was asked you by Mr. Hagerman: "In your judgment there was an increase of cost which you arrived at in this way: You took the local earnings and added 50 per cent and then found what percentage that was of the entire earnings thus increased: Answer. Yes, sir. Question. And then used that multiple upon the total freight expenses? Answer. Yes, sir. Question. And that gave you these figures which you have mentioned? Answer. Yes, sir.

Then the Master says "Question. That multiple was usually about six, you think?" Answer. I think it would be practically about six times the cost. In other words, it is 50 per cent over the earnings basis.

Now what did you mean by six times there?

A. Well, I did not mean to infer it was six times the
3514 cost of all classes of freight.

Q. And then I interpolated a question.

"I understand you to say you think it costs six times as much to do the local business as to do the other business." "That is my opinion"

Did you mean there, that part of the local business cost six times as much?

A. I believe it cost from two to seven times as much, and that part of it will run as high as six.

Q. When I asked you if you understood that it cost six times to do the local business as to do the other business and you said that was your opinion, you meant to say six times to do some parts of the local business?

A. Some parts of the local business, as compared with the interstate cost.

Q. Can you tell me how many tons of freight the Missouri Pacific Railroad handled in Missouri in 1904?

A. No, sir.

Q. Do your records show?

A. My records?

Q. Would any records in your office show?

A. No, sir. We have no records in the Missouri Pacific Railroad that will show the number of tons of freight handled in the State of Missouri, other than the original way-bills themselves.

Q. For either of those years?

A. No, sir.

Q. Or for any period?

3515 A. No, sir.

Q. Do you remember, Mr. Johnson, I think you have been here in pretty constant attendance at these different hearings, the blue-print presented by the Wabash people when their case was on hearing?

A. I remember one of them.

Q. I do not remember but one. Do you keep anything similar to that in your office?

A. Yes, sir.

Q. That shows the number of tons in each Accounting Division, and the number of ton miles in each division?

A. Yes, sir.

Q. Do you keep a blue-print or record of that sort?

A. Yes, sir.

Q. In what office is that?

A. That is in my office. But it does not apply to the State of Missouri.

Q. What does it apply to?

A. It applies to the Accounting Division.

Q. It applies to the Accounting Division, just as the Wabash blue-print did?

A. If I remember aright, the Wabash Accounting Divisions were built almost entirely along State lines, with one exception. I may be wrong about that.

Q. In what form is that blue-print you speak of that you have in your office?

A. It is a blue-print from the first of August of this year. Prior to that time it is in printed form.

3516 Q. In the form of a pamphlet?

A. In the form of a statement, as large as these blotters (indicating).

Q. Will you bring those in this afternoon?

A. For what period?

Q. I would like them for 1904 and 1905 and if you have it for 1906.

A. For 1904 and 1905 we can give them to you. But the tonnage is on what we call "an estimated basis." It is not the actual tons or ton miles.

Q. I don't care what the basis is. Bring them in and let us look at them, will you?

A. Yes, sir.

Q. For the years 1904, 1905 and 1906?

A. Yes, sir.

Q. What else do those statements show?

A. It shows the passenger statistics, passengers carried and passengers carried one mile. Passenger and freight train mileage, loaded and empty cars, and the expenses of each operating division.

Q. I wish you would bring them in.

A. Yes, sir.

Q. These papers you are going to bring in will show the territory

of your different Accounting Divisions or Operating Divisions, will they?

A. Operating Divisions.

Q. It will show the territory?

A. Yes, sir.

3517 The MASTER:

Q. Are not the operating divisions coincident with the accounting divisions?

A. The accounting divisions were not compiled in statement form.

Mr. HAGERMAN: It seems to me we have lost the benefit of the adjournment. I understood it was for the purpose of having the expert go over these matters.

Mr. LADD: We did not know anything about these papers until within the last five minutes.

Mr. HAGERMAN: You could have known the first minute your expert asked for them, or asked about them.

At this point the usual hour for recess having arrived, recess was taken until two o'clock p. m.

After recess on January 31, 1907, the following proceedings were had:

Cross-examination of F. P. JOHNSON, continued as follows:

By Mr. S. B. LADD:

Q. Can you state what the expenses of the St. Louis terminals were for the last half of 1905?

A. I can by looking at those papers over there that I have (indicating).

Q. Would you mind looking at them?

A. (After examining statement sheet:) The freight proportion of the St. Louis terminal expenses for the six months ending December 31, 1905, was $385,530.46. The passenger proportion was $39,031.14. A total of $424,561.60.

3518 Q. What is the mileage?

A. (After examining book:) 46 miles.

Mr. HAGERMAN:

Q. Have you a fixed territory for the St. Louis terminals, like in Kansas City?

A. Yes, sir.

Q. Suppose you give the dimensions.

A. It extends from Seventh street St. Louis to the Kirkwood yard limits. Do you want the mileage of each of these branches?

Q. Yes, you might as well give the distance. I was simply getting at the limits.

A. 14 miles from Seventh street to the Kirkwood yard limits.

From St. Louis levee to 11th street, one mile.

From Tower Grove to Carondelet, six miles.

From Lake Junction to Creve Cœur, 12 miles.

Q. Is Lake Junction the place where they branch from the main line?

A. Yes, sir.

From Kiskwood to Carondelet, 13 miles. A total of 46 miles.

The MASTER:

Q. That, I take it, to be exclusive of the sidings and industrial tracks and storage tracks.

A. Yes, sir.

Mr. HAGERMAN:

Q. Measured like you measured it in your statement here for Kansas City?

A. Yes, sir, just exactly.

Mr. LADD:

3519 Q. 46 miles here answers to 16.92 at Kansas City?

A. Yes sir, as shown by Exhibit 11.

Q. Have you figured up the average terminal expense per mile at each place?

A. No sir.

Q. You spoke in your direct examination, I believe, about some expenses being divided or prorated according to train mileage: Am I right about that?

A. The taxes paid in the State of Missousi and the rentals and interest on bonded indebtedness is divided between freight and passenger on the basis of train mileage in both classes of service.

Q. The only expenses that were divided on the basis on train mileage; is that right?

A. No sir. Your maintenance of way and structures——

Q. I do not care what they were, but you did speak about some expenses or some expenditures being divided on the basis of train mileage.

A. That is, between freight and passenger?

Q. Yes.

A. Yes.

Q. And by that you meant revenue train mileage?

A. Yes sir.

Q. Do you know what the revenue freight train mileage was for the year 1904 in Missouri.

A. I would like to explain about revenue train mileage: some roads are compiling statistics based on revenue train mileage, the difference in the two classes being that one includes light

3520 engines with cabooses.

Q. What is revenue train mileage?

A. Revenue train mileage, as we use it now, is the mileage of revenue earning trains, including the mileage of engines with cabooses.

Q. Can you tell me what the revenue freight train mileage in Missouri for the year 1904 was?

A. We arrive at the train mileage in Missouri, by taking the train

mileage of such divisions as lie wholly within the state of Missouri, and divisions that enter more than one state we have pro-rated their train mileage on the basis of track mileage, just as we do on expenses. Using that as our basis the revenue freight train mileage for the year 1904 was 2,341,740 miles.

Q. What was it for 1905?

A. That was freight. The freight train mileage for the year 1905 was 2,137,986 miles.

Q. What was the revenue passenger train mileage for those two years?

A. For the year 1904 the passenger train mileage was 2,479,826 miles. For the year 1905, it was 2,265,633 miles.

Mr. HAGERMAN:

Q. I don't understand what you mean; you say it is that many miles? What do you mean?

A. It is the number of trains hauled one mile. It does not include work trains.

Q. Why do you use the term "revenue"?

A. It is revenue producing trains.

Mr. LADD:

3521 Q. On page 5 of Exhibit 5 you show freight expenses and passenger expenses in Missouri for the two years mentioned, in separate columns; is that right?

A. Yes sir.

Q. In what column do you charge the expense of handling company freight?

Mr. HAGERMAN:

Q. What do you mean by "company freight"?

A. That expense is practically all included in the freight column.

Q. It is true, isn't it, Mr. Johnson, that a substantial part of that company freight would be for the benefit of the passenger business and the freight business, jointly?

A. Yes sir, I should say that some part of it would be. I cannot say just what proportion.

Q. Wouldn't there be a substantial part?

A. Yes sir, a substantial part.

Q. For instance, if you have a carload of rails that you are hauling over the road from the east end to the west end of it, to lay in the western end of your road, to replace other rails, that is for the common benefit, those rails would be, of freight and passenger business?

A. Yes sir.

Mr. HAGERMAN: But they would be hauled on freight trains. I don't know that that would be a matter for a witness to determine.

Mr. LADD: He is the man who got up those expenses.

Mr. HAGERMAN: I was suggesting, Your Honor, that that would

be a question of law, as to what kind of earnings that
3522 would be.

Mr. LADD: We must find out the facts before we can apply the law.

Mr. HAGERMAN: I don't want to pass that on the assumption that we are not objecting, as to whether the carriage of that is not properly a freight expense, though it may inure to some degree to the passenger service. I make the point merely so you can catch it as the testimony is put in.

The MASTER: Even if objection should be taken, I think it is premature at this time. We may take it as objected to at the proper time, and the objection overruled, so the point may be saved.

Mr. LADD:

Q. What is true of that carload of rails that I have just mentioned is also true of a great deal of other material which would be hauled by the company, isn't it?

A. Yes sir.

Q. It would be true, wouldn't it, to illustrate it, of the coal handled by the company.

A. Yes sir.

Q. Isn't it true that some freight hauled by the company for its own use is exclusively for the passenger business?

A. I cannot think of any now, unless it would be miscellaneous supplies used in passenger train service. But it would be a very small proportion of our total company material.

Q. How is it about material for repairs to passenger cars, at your shops?

A. It would be true of that class of material, if it was carried as company material.

3523 Q. Isn't it carried as company material?

A. I don't know. We have shops at St. Louis, and probably would not carry any company material there. There may be shops where we have to carry company material.

Q. Do you repair cars at Sedalia?

A. Yes sir.

Q. Do you make car wheels for your company?

A. That I cannot say. I do not know.

Q. You don't know whether you make your car wheels or buy them?

A. I do not know whether we buy all of them or not.

Q. Do you buy some of them?

A. Yes sir.

Q. Car wheels intended to replace worn out ones for passenger cars, the hauling of that, if hauled to Sedalia, would be for the benefit of the passenger service entirely, wouldn't it?

A. Yes sir.

Q. Now, Mr. Johnson, speaking generally, don't you think it would be true that there would be a good many items that might be enumerated, and of course which I cannot think of, which would be company freight, and would be for the exclusive benefit of the passenger business?

A. Yes sir, I believe there would be a good many, but just how much I cannot say.

Q. Take the item of bridge piers and structural iron for bridges: That is all company freight, isn't it?

A. Yes sir.

3524 Q. All of those are for the common benefit of the freight and passenger service, aren't they?

A. Yes sir.

Q. And you say it is all charged to freight expenses?

A. The expense of hauling it, yes sir.

Q. Can you give me the ton mile for company freight?

A. Yes sir.

Q. What can you give me the ton mile for?

A. We can give you the ton mile of company freight for the year 1904, for the entire Missouri Pacific system, including the Iron Mountain Railway, and that would be an estimated figure. It would not represent the actual tonnage hauled.

Q. What is it? Where do you take that from?

A. From the operating sheet which we compile for the operating department as statement showing expense and cost of running trains upon each operating division. I ought to say in explanation that this statement does not pretend to show actual figures.

Q. Those statements are kept in the regular course of your office business?

A. They are kept in the regular course of things, but simply for comparative purposes.

Q. As our friend, Mr. Tobin, would say, for statistical purposes?

A. I doubt if they would be correct statistics.

The MASTER: I do not want to assume the position of objector myself, but it does seem to me that is opening up a very broad field, and almost illimitable field. And, so far as I am able to see

3525 at this moment, I cannot see the bearing of it.

Mr. LADD: Precisely the same kind of testimony was offered in the Wabash case.

The MASTER: Well, go on.

Mr. LADD: What I want to show, if I can, is to show the company's material, total tonnage.

The MASTER: But you are including two separate and distinct systems, and two separate defendants in this case.

Mr. LADD: I shall go further if I can and show the mileage on the Missouri Pacific Railroad and on the Iron Mountain Railroad, and get at it the best way I can. That is the best we can do.

Mr. HAGERMAN: I object to it as immaterial, and as going into a matter of speculation.

The MASTER: I will say very frankly to you, gentlemen, that it does not impress me particularly at this moment, but I will overrule the objection pro forma, and you may proceed.

A. The number of tons of company freight one mile, on the St. Louis, Iron Mountain and Southern, and the Missouri Pacific Railway, including the Central Branch, is 350,392,319 miles, for the year ending December 31, 1904.

Mr. HAGERMAN:

Q. What is that? The number of ton miles?
A. The number of ton miles.
Q. That is the number of ton miles of company freight on the entire system?
A. Yes sir.

Mr. LADD:

3526 Q. What was the total number of ton miles?
A. Including company material?
Q. Yes.
A. 3,861,913,122.
Q. Can you give me the total number of ton miles from all kinds of freight in Missouri for 1904?
A. No sir.
Q. You can only give me the total number of ton miles on the Missouri Pacific, the Iron Mountain, and the Central Branch: Is that it?
A. We can give it to you by operating division.
Q. Could you give me the number of ton miles of company freight, by operating division.
A. Yes sir.
Q. Would that be closer than the other?
A. It would be closer, but it would not be Missouri.
Q. In 1904 was there more than one operating division in Missouri?
A. Yes sir.
Q. How many?
A. There were three operating divisions that covered parts of Missouri.
Q. All of Missouri was included in three operating divisions.
A. Yes sir.
Q. And it covered some other territory?
A. Yes sir.
Q. What other?
3527 A. It covered parts of Kansas and parts of Nebraska.
Q. In what you call "operating divisions," are those operating divisions parts of the St. Louis and Iron Mountain Railway, also included, or is it just the Missouri Pacific?
A. Just the Missouri Pacific.
Q. I think we are getting a little closer to it now. There are three operating divisions?
A. Yes sir.
Q. Do you give them by numbers or names?
A. We have them by numbers.
Mr. HAGERMAN: State what is included in each division.
A. Those operating divisions are divided into accounting divisions, and in compiling our operating expenses we took our accounting divisions, because we could get closer to the actual expenses in Missouri.

Mr. LADD:

Q. Then let us take that instead of the operating divisions, if the accounting divisions are more nearly concurrent with Missouri.

A. In order to get the company material I will have to deduct revenue from the total. We do not show company material on this statement.

Mr. HAGERMAN: What about the empties?

A. This is tonnage.

Q. Does this simply deal with freight that was carried?

A. Yes sir.

Mr. Ladd, you want that for each accounting division, or for enough to make as near Missouri as you can get.

Mr. LADD: That is what I want.

A. The number of tons moved one mile of company material on all accounting divisions that touch the state of Missouri,
3528 is 136,817,775.

The MASTER: For what period of time?

A. For the year ending December 31, 1904.

Mr. LADD:

Q. That is company material?

A. Yes sir.

Q. You say for all accounting divisions that touch Missouri?

A. On the Missouri Pacific Railroad.

Q. Now does that volume of company material include any territory outside of Missouri?

A. Yes sir.

Q. How would you divide that up? Is it fair to do it on a mileage basis? That is the way you do some?

A. I do not believe it would be fair to divide tonnage, or tons hauled one mile, on a mileage basis.

Q. Suppose you do it and see how it would come out?

Mr. HAGERMAN: I do not like to object, but it does seem to me things of this kind ought to be worked out by the experts and the statements brought in.

The MASTER: It is argumentative at best, and having the facts before you you could submit your statements in argument. That is all it amounts to. It hardly amounts to testimony.

Mr. LADD: That is the way we have been proceeding since we began. Of course I didn't like to take the time, and suspend examination for a witness to make figures.

The MASTER: Besides, it is not fair to the witness to be asked to make an intricate computation while upon the witness stand.
3529 An error might creep in which would do somebody material injury. You have the facts there. Why not allow your expert to make whatever deductions from those figures would appear.

Mr. LADD: But I haven't the facts yet. I am trying to get them.

The MASTER: You are asking the witness, as I understand, to make a computation that would certainly involve considerable time,

and it is quite an intricate computation beside, and might possibly be right or wrong.

Mr. LADD: Of course I don't want to take up too much time, but witnesses have been making computations all the time.

Q. You say the ton miles of company freight were 136,817,775 tons?

A. Yes sir.

Q. In what accounting division were those? Do they go by numbers?

A. Yes sir.

Q. Please give them.

A. St. Louis # 12. Warsaw # 13. Kansas City, # 14. Joplin, # 16. Madison, # 18. Pittsburg, # 20. Crawford, # 21. Omaha, # 24. Ossawatomie, # 38.

Q. What track does "St. Louis # 12" include? If I can get those papers I will have our expert figure it out. Where does "St. Louis # 12" start and end?

Mr. LUDLAM: We have that.

Mr. LADD:

Q. Can you tell me the total ton miles in those operating divisions?

3530 A. The total tons hauled one mile including company material is 1,221,325,585.

Q. That is for 1904?

A. Yes sir.

Q. Can you give me the same information for 1905? Did you keep the accounts in the same way that year?

A. We kept them by accounting divisions for the first six months of 1905, and then commencing July 1, 1905 we changed our fiscal year, so the six months from July 1, to June 30, 1905 are not compiled in period figures. I have the statement for each month separate and then a statement for the fiscal year ending June 1906. That takes in the last six months of 1905, and the first six months of 1906?

Q. You have the first six months of 1905?

A. Yes sir, by months.

Q. Have you the total there?

A. No sir. Changing our fiscal year from July 1, 1906, the company concluded not to publish a fiscal statement?

Q. Your fiscal year was concurrent with the calendar year?

A. Yes sir, up to January 1905.

Mr. HAGERMAN:

Q. So your statement excludes the first six months of 1905?

A. Yes sir.

Mr. LADD:

Q. Have you the tonnage for the fiscal year ending June 30, 1906?

A. Yes sir.

Q. That is for those same accounting divisions?

A. Practically the same territory, but it is by operating
3531 divisions now.

Q. But practically the same territory?

A. Yes.

Mr. HAGERMAN:

Q. Let me see if I understand the difference between operating divisions and accounting divisions.

A. An operating division is a territory over which a superintendent has jurisdiction.

Q. Up to 1905 you did it according to accounting divisions, and now it is according to operating division?

A. Yes sir. An operating division is part of the system over which a superintendent has entire jurisdiction, and for the purposes of convenience in operating we would separate the operating divisions into what we call "accounting divisions". But on the first of July 1905 we abolished the accounting division.

The MASTER:

Q. And now the operating divisions and the accounting divisions are concurrent?

A. Yes sir.

Mr. LADD:

Q. I understood you to say a few moments ago, they are substantially the same as they were before.

A. The territory is, yes sir. I can give the figures for practically the same territory as I gave for 1904.

Q. Give me the ton miles of company freight for the fiscal year ending June 30, 1906 in the divisions corresponding substantially to the accounting divisions already mentioned.

A. That would not be a fair comparison. I can give you statistics on ton mileage, but it would not cover the same territory you have there (indicating).

Mr. HAGERMAN:

3532 Q. You said a moment ago it would; what is the difference?

A. Because on the first of October we made a change in the operating division that will materially affect the figures.

Mr. LADD:

Q. When?

A. October 1, 1905.

Mr. HAGERMANN: Let him give what operating division is now. All he means is to take back what he said a moment ago about them being the same.

A. What I mean is, I will give you the ton mileage and furnish you later that track mileage, and that will enable you to reach the same result, but the mileage itself will be different.

Mr. LADD:

Q. What are you going to give me now? The ton miles of company freight on these accounting divisions, for the period October 1905, to June 30, 1906?

A. No sir. From the first of July 1905 to June 30, 1906 all operating divisions that touch the state of Missouri.

Q. Very well, how much is that?

A. The number of tons of company material moved one mile was 138,701,656.

Q. Now the total tonnage?

A. 1,379,172,895.

Q. During the same period?

A. Yes sir.

Q. That is the total ton miles, those last figures?

A. Yes sir.

Q. Have you got over here the sheet you spoke of before recess, that I asked you to bring?

A. The operating statement?

3533 Q. Yes, what we were talking about just before recess.

A. Yes sir.

Q. Are they here?

A. Yes sir.

Q. Will you let Mr. Ludlam and Mr. Taliaferro look at them?

A. Here they are.

Q. Have you copies of those?

A. Those I have taken from my own file but I believe we have complete copies.

I would like to explain these statements first, before they pass from my hands. All I would like to state is that this statement does not constitute a record of the Missouri Pacific Railway. It is compiled from the operating expenses, but it is compiled for the purposes of showing the comparative cost of moving trains, on each operating division of the Missouri Pacific Railway, of which we have some ten or twelve.

Now, the figures for each operating division do not pretend to represent the actual cost of moving a train one mile on that division. But, having adopted a system, and using the same system month after month, our General Manager who instituted the statement, believed he could get a statement which would enable him to show whether the Superintendent was increasing expenses in greater proportion than his business.

In dividing those between freight and passenger we used an arbitrary division and changed that from year to year as he saw fit. The tonnage itself is estimated.

Of course it is estimated from the records of the
3534 & 3535 way-bills, but at the close of the month, or when the time came to close the month, all the way bills were not in. Some of the tonnage was based on estimated weights. So for that purpose the statement itself does not represent the actual tonnage hauled each month, and it so states on the bottom of the statement.

Mr. HAGERMAN:

Q. What is the language on the bottom of the statement?

A. "Comparison is made herein between estimated expenses of 1904 and the actual expenses of 1903".

And that same language will run through not only the expenses but the statistics.

Q. Is that all the explanation you wish to make about it?

A. Yes sir. The Company itself does not pretend it is actual figures, we never said they were actual.

Mr. LADD:

Q. This statement Exhibit 5 which was furnished to the State as a showing of the operations of the Company for the years 1904 and 1905, consisting of five different sheets, I understood you testified, so far as it concerned expenses, was prepared by you or under your direction: Is that right?

A. Yes sir.

Q. Since we were here a week ago have you discovered—are there any changes you would like to make?

A. In examining our books an error was discovered, or what might appear to be an error, and we have compiled a separate statement?

Q. You mean by that a new statement?

A. Yes sir.

3536 The MASTER:

Q. To be substituted in lieu of Exhibit 5: Is that the idea?

A. I believe that was the understanding, that it was to be substituted in lieu of certain pages in Exhibit 5.

Mr. HAGERMAN:

Q. What pages were they?

A. It would affect pages 1, 3 and 5. There was one item of expense in 1904 and one in 1905, that were not taken into consideration in compiling this statement.

The MASTER:

Q. And those corrections are made on this corrected statement?

A. Yes sir.

Mr. HAGERMAN: That is something discovered since the experts on the other side have been examining along with you?

A. It was during their examination that we discovered it. It was considered at the time we went over the figures that it should not be considered at the time we compiled this statement. But we have included it there, and reduced the expenses accordingly.

The MASTER:

Q. Is there only one item on each one of the pages to which you refer that is affected?

A. No sir, it affects several of the accounts. I will say it reduces the operating expenses for the year 1904.

Q. What page is that?

A. Page 5 of Exhibit 5. The new statement would reduce the total operating expenses for the year 1904 $28,813.17; that is the total. The freight proportion of that would be $20,433.58. While in the year 1905 the total operating expenses would be reduced $49,-227.96, and the freight proportion of that is $31,563.76.

3537 Mr. HAGERMAN:

Q. Does that go into any particular account?

A. Yes sir, it reduces both the maintenance of way and structure and maintenance of equipment.

Q. And whatever that is, your error about it making that difference, is a matter which has come about from the joint examination with the experts on the other side, since the last adjournment?

A. Yes sir.

Q. Then put in your amended pages 1, 2 and 3 as Exhibits 5*a*.

A. Pages 2 and 4 are simply statements showing how we arrived at the figures and for that reason we did not make exhibits for the amended statement.

Mr. HAGERMAN:

Q. Have these amended figures making this small difference, been gone over with any of the people for the state?

A. They discovered that this credit to operating expenses had not been applied to operating expenses for this year, and it was agreed we would give the state of Missouri credit for that amount of money.

Q. The only change is, making the change in those figures and carrying it into the total.

A. Yes sir.

Q. So a comparison of the figure will show?

A. Yes sir.

The paper referred to is marked "Complainant's Exhibit 5-*a*. Exhibit 5-*a* is in the words and figures following, to-wit:

3538 Mr. LADD: Let me see if I understand Exhibit 5-*a*: what changes it will make in the original Exhibit 5.

On page 5 what change has been effected, if any, in the amount charged in the first column, to freight, for maintenance of way and structures?

A. The charge to maintenance of way and structures, freight, in Exhibit 5, for the year ending December 31, 1904, was $525,718.07.

Mr. LADD: How much is it in the new statement?

A. $525,788.31.

Q. That is a small increase?

A. Yes sir.

Q. Has any change been effected in the charge to freight
3539 for maintenance of equipment?

A. Yes sir.

Q. State what it is.

A. In Exhibit 5 for the year ending December 31, 1904, the charge for maintenance of equipment $997,188.01; in Exhibit 5-*a* the amount is $976,684.19.

Q. That is a reduction of how much?
A. It is approximately $20,500.
Q. Are there any other changes in that first column for 1904, except in those two items?
A. No sir, except of course the total.
Q. The total operating expense in your first statement was how much?
A. $4,442,795.51.
Q. And how much is it in the new one?
A. $4,422,361.93.
Q. Have you figured the difference between those?
A. The difference is $20,434 approximately.
Q. Is it that much less in the new statement than in the old?
A. Yes sir.
Q. Are there similar changes in the column headed "Actual expenses for 1904," I mean changes of the same kind?
A. Yes sir, in the same accounts.
Q. In the same two accounts?
A. Yes sir. In addition to that in the year 1904 there is a slight change in "conducting transportation, passenger."
Q. Those will show for themselves?
A. Yes sir.
3540 Q. Now take the year 1905; what changes in freight expenses have been accomplished by this new statement.
A. We have made changes in the charges to maintenance of way and structures.
Q. What is that change?
A. Exhibit 5 shows a total under "Maintenance of way and structure, freight" of $566,698.60; exhibit 5-*a* is $562,389.09.
Q. A difference of something like $4000 less?
A. Yes sir.
Q. How is it about "Maintenance of equipment?
A. The total charge to "Maintenance of equipment," freight, on Exhibit 5 is $781,284.61; and on exhibit 5-*a* is $754,030.36.
Q. Are there any other changes in that column under the head of "Freight Expenses"?
A. That is all, except in the total operating expense.
Q. The old total was —?
A. Yes sir.
Q. And the new one is $4,203,320.94?
A. Yes sir.
Q. A difference of a little over $30,000?
A. $31,500.
Q. What is the occasion for those differences: state them.
A. It represents the value of the material on hand, when the annual inventory was taken. Under the system in which that particular account was kept, it was not credited to operating expenses.
Q. That is to say, in the first place you included in the operating expenses for each one of those two years a lot of material
3541 which you had bought to use, or a lot of material which you had bought to use which had not been actually used: Is that it?

A. That is hardly the way to put it?
Q. What is the way to put it?
A. I would say that in charging out material from month to month, various superintendents handled the material charged to operating expenses from month to month, a greater proportion than the inventory taken at the end of the year. Or in other words, at the end of the year we had on hand a greater amount of material than the books of the company showed, and for that reason the operating expenses have been credited with the amount they have been charged in excess of the amount actually used.
Q. And that was on account of material on hand?
A. Yes sir.

Mr. HAGERMAN:

Q. How was that thing discovered?
A. In going over the ledger the experts for the state discovered that.
Q. Did you carry it out in the passenger, as well as in the other?

Mr. LADD: I did not ask him about the passenger
Mr. HAGERMAN: Give it correspondingly as to the passenger, so we will have the whole thing together here.

A. In the statement of passenger expenses, on Exhibit 5, for the year ending December 31, 1904, it shows a total under "Maintenance of way and structures" of $531,677.24. On Exhibit 5-*a* the total is $531,774.39.
Q. What is the total in Maintenance of equipment?
A. On Exhibit 5 the charge to Maintenance of equipment
3542 is $199,268.59. On Exhibit 5-*a* the total is $191,112.77.
On "Conducting Transportation" on Exhibit 5 the total is $1,130,362.02. On Exhibit 5-*a* the total is $1,130,041.10.
The total operating expenses on Exhibit 5 is $2,175,876.14. On Exhibit 5-*a* $2,167,496.55. That covers the changes made in the passenger expenses for the year 1904.

Mr. HAGERMAN:

Q. Give it also for the year 1905.
A. The passenger expenses under "Maintenance of way and structure" for the year ending December 31, 1905, on Exhibit 5 is $463,091.73. On Exhibit 5-*a* it is $458,541.80. The charge to "Maintenance of equipment, passenger," on Exhibit 5 is $366,-545.78. On Exhibit 5-*a* it is $353,431.51.
The total operating expenses on Exhibit 5, passenger proportion, $2,175,638.85. On Exhibit 5-*a* $2,157,974.65.

Mr. HAGERMAN:

Q. Did I interrupt you at the time you explained how the error occurred, or did you say all you wanted to about that?
A. I explained that.

Mr. LADD:

Q. These changes that you have pointed out on Exhibit 5 and Exhibit 5-*a*, that is the results of those changes have been carried into pages 1 and 3 of Exhibit 5-*a* haven't they?

A. Yes sir.

Q. And they have been changed to correspond, haven't they?

A. Yes sir.

Q. On page 1 of Exhibit 5, at the foot of it there is a note preceded by an asterisk. I see that has not been copied on to page 1 of Exhibit 5-*a*, but it belongs there.

A. It is copied up above, but omitted down below.

NOTE.—This is to be added to Exhibit 5-*a*.

3543 Q. On page 1 of Exhibit 5-*a* you calculate the total expenses on local freight traffic to be $1,865,914.31 for 1904, and $1,914,625.27 for 1905: Now in the word "expenses" as used there, do you include taxes, rentals and interest on bonded indebtedness shown on page 5 of Exhibit 5-*a*.

A. Yes sir.

Q. In arriving at those figures of the total expenses on the local freight traffic, that I have just read to you, from page 1 of that Exhibit, do you charge to local traffic as an extra expense the same proportion of taxes, rental and interest on bonded indebtedness as you do to "Conducting Transportation" and those other items of expense?

A. Yes sir.

Q. The taxes which you refer to there, amounting in all in 1904 to 206 thousand and some odd dollars, and in 1905 to $227,757, are the taxes you pay to the state and the county and the various municipalities of the state of Missouri, aren't they?

A. Yes sir.

Q. On property of the company in this state: Is that right?

A. Yes sir.

Q. You charge to the state traffic the same extra proportion of taxes and the interest on bonded indebtedness that you do to "Maintenance of way and equipment" and "Conducting Transportation" and "General Expenses," don't you?

A. Yes sir.

Mr. HAGERMAN: I don't know what you mean by that? Are you asking him if that 50% applies to all of it?

3544 Mr. LADD: Yes sir.

Q. You charge as against $100 of revenue derived from state freight traffic more than you do as against an equivalent amount of $100 derived from interstate freight traffic, on account of taxes and bonded indebtedness.

Mr. HAGERMAN: That is objected to as misleading and an improper assumption of the witness' testimony, because the statement shows on its face that this assumed figure of 50% applies to all these things and speaks for itself. It is not a question of his charging. It is applying the multiple of 50%.

The MASTER: Let the witness answer.
A. Yes sir.

Mr. LADD:

Q. You said the other day that you thought this 50% mentioned in the note on page 1 of Exhibit 5 was fair to the state, in your opinion: I will ask you if you think it is right, in your opinion, to charge that same percentage when you come to deal with the amount paid for taxes, and interest on the bonded indebtedness?

Mr. HAGERMAN: That is objected to as assuming what the witness said. He stated the 50% was at the suggestion of the lawyer, being put there as a minimum to show the deficit.

Mr. LADD: I don't know that he has testified yet that some lawyer suggested that to him.

Mr. HAGERMAN: He may have said some officer of the company. But he never stated, as you suggest.

Previous question read.

A. I will say that 50 per cent when applied to the total
3545 operating expenses, I do believe to be fair.

Q. I am asking now about interest on the bonded indebtedness and taxes.

A. Just what proportion the bonded indebtedness and the taxes and the fixed charges of a railroad company should be applied to the hauling of state freight as against the interstate freight, would depend on the increased cost of doing the business Personally, I believe that the entire amount of taxes, barring perhaps some small proportion of it on account of rolling stock, and all the interest on the bonded indebtedness, ought to be charged to the state freight as well as interstate. But as to the exact proportion in an estimate of this kind, I am not competent to say.

Q. What reason is there, if you have any, for charging to, we will say, a locomotive, which is exclusively engaged in hauling state freight, more of the interest on the bonded indebtedness, than there is in charging to another locomotive of the same value, which is exclusively engaged in hauling interstate freight.

A. Well, I should say that locomotive engaged in hauling state freight ought to pay more than its proportion of the taxes and fixed charges based on its earning in that class of service, because its earnings would be less in the state business than it would be in the interstate. That, now, is my opinion.

Q. We will say here is one locomotive: What is the average cost of a locomotive? Ten or fifteen thousand dollars?

A. I guess the average will run close to seventeen thousand dollars now.

Q. We will say, take a locomotive that is worth $15,000, and it is assessed, we will say, at $6000 for the purposes of taxation:
3546 it is engaged in hauling freight on way trains exclusively. If such a situation can be conceived, it is engaged in hauling exclusively state freight. Now here is another locomotive of exactly the same value, assessed on the same amount, which is engaged in

hauling exclusively interstate freight. The taxes which the company pays on each of those locomotives is exactly the same amount of money: Now do you think in that case the state freight should be charged any more on account of taxes than the interstate freight?

A. Yes sir, in proportion to the earnings.

Redirect examination.

By Mr. HAGERMAN:

Q. When you were on the stand last, adjournment was taken for the experts of the state and their assistants, to examine your books and papers so as to prepare for cross-examination of yourself and Mr. Roth: Have they been engaged at it since that time?

A. Yes sir.

Q. And you have given them everything they have asked for?

A. As I understand it. Everything they have asked for has been given them. They have not come to me for anything, or for very little.

Q. This Exhibit 10 of which you spoke in your cross-examination, in describing the per cent you say the per cent of operating expenses to earnings 76.19 for one year and 74.73 for the other year: You mean by that the per cent of operating expenses excluding taxes, rentals and interest, is that percentage, do you?

3547 A. The per cent of 76.19 is the per cent of operating expenses to earnings, exclusive of taxes, rentals and fixed charges.

Q. And inclusive of those items, taxes, rentals and interest, it is what?

A. For the year 1904 the per cent is 89.66. For the year 1905 the per cent is 88.77.

Q. As I understand you, Mr. Johnson, the method which has been in use or practice, rather, since July 1, 1905, as to the Kansas City terminals, is to treat that as an accounting division in and of itself?

A. Yes sir.

Q. And that accounting division included as the Kansas City terminals, probably all your tracks described in Exhibit 11.

A. Yes sir.

Q. And that was something compiled at the request of the state for that information?

A. Yes sir.

Q. Do you remember how many side tracks there are between the Rock Creek Junction and, say, the Hannibal bridge, at Kansas City?

A. No sir.

Q. Or whether there are any or not?

A. No sir, I cannot say how much that is.

Q. They did not ask you for that detail of the information, and you did not get it up?

A. No sir, they asked for the side tracks between Kansas City Southwest Junction and Leeds.

Mr. LADD:

Q. Have you that now?

3548 A. Yes sir, it has just come in.

Mr. HAGERMAN:

Q. What is that?

A. Side tracks at Kansas City and Southwest Junction amount to .31 of a mile.

Mr. HAGERMAN:

Q. What else is there?

A. At Sheffield is 2.22.

At Centropolis is .47.

At Leeds .98.

Or a total of 4.97 miles between Kansas City Southwest Junction and Leeds, inclusive.

Q. Something was asked about your company freight being charged to "Freight": I presume what you were talking about were supplies actually used by the company, which are carried ordinarily upon freight trains?

A. Yes sir.

Q. And whatever that is is considered and treated as company freight expense?

A. Yes sir.

Q. And that has always been so?

A. Yes sir.

Q. Suppose there is any material hauled in passenger trains, for instance express matter?

A. Express matter, or any company material hauled in a passenger train would be treated as a passenger expense.

Q. Treated as part and parcel of the passenger train expense?

A. Yes sir.

Q. Did you ever hear of any other way of keeping those,
3549 in any system of railroad accounting?

A. I never have heard of any other system.

Q. Something was asked you about this 50 per cent extra cost which you have tabulated, about which you made your explanation when you were on the stand before: As I understand you, the 50 per cent in the first sheet of Exhibit 5 has been applied to all the expenses, regardless of whether they were "Conducting Transportation," "Maintenance of way" or "equipment" or of whatsoever character?

A. Yes sir.

Q. That is, the 50 per cent as put in that statement applies to every kind of expense, including taxes, rentals and interest upon the bonded indebtedness?

A. Yes sir.

Q. And you have made up no statement, up to the present time, eliminating those three features, and applying the 50 per cent, or any other per cent that might be found to be right, upon the trial?

A. No sir.

Q. That would be simply a mathematical calculation?

A. That is all.

Q. That is to say, when the Master, at the end of the case, finds how much it costs more to do the local business or the state business

than it does to do the interstate business, that can be applied to such items as he finds it ought to be applied to?

A. Yes sir.

Q. And then it becomes a mathematical problem that can be worked out with mathematical certainty?

3550 A. Yes sir.

Q. And in your application of it you have simply taken for the reasons you have already explained, 50 per cent and applied it as a mathematical sum to all the items of expenses?

A. Yes sir.

Recross-examination.

By Mr. LADD:

Q. Suppose, to illustrate, that it costs 4 mills per ton mile to handle and move on the Missouri Pacific Railway interstate freight: How many mills per ton mile does it cost to handle and move state freight, on the basis of this 50 per cent of which you speak in your statement here?

A. It would cost 6 mills to haul state freight.

Q. If it cost 4 mills per ton mile to handle and move interstate freight, when you speak of the 50 per cent additional cost you mean it will cost 6 mills per ton mile to handle the state freight. Is that what I understand you to say?

A. Yes, sir.

Q. You understood my question, did you?

A. I believe I did.

Redirect examination.

By Mr. HAGERMAN:

Q. Let us see how this works out: Let us figure this out as you did in your former testimony, taking the proportion of earnings to the expenses:

The freight earnings I believe you said for the year 1904 were 27.12 per cent of the State freight earnings?

A. Can you use the year 1905 there just as well?

3551 Q. I don't know whether you gave it to me for 1905.

The MASTER: I don't quite understand why it is if you exhaust that 50% in the application of the additional cost of moving or transporting local freight, why you should use anything additional for taxes or maintenance of structures or anything else.

Mr. HAGERMAN: He has not attempted to give an expert opinion. It might be six times simply the cost of "conducting transportation." But taking it as a whole it might be three times all the expenses and the taxes would be part of the expenses.

Now I have never been able to get through my head this fine spun theory of per ton per mile: Give me the per cent of the gross State earnings for the year 1904.

A. The per cent of the total, 27.12.

Q. What is it for 1905, practically the same?

A. 29.27.

The MASTER: What exhibit is that.
Mr. HAGERMAN: It is not in any Exhibit, I believe.
The MASTER: Isn't it in Exhibit 6?

Mr. HAGERMAN:

Q. That would make it for the inter-state business 70.73?
A. Yes, sir.
Q. And 29.27 multiplied by 1½ would be how much?
A. 43.90.

3552 Q. What per cent would that be of the total, have you that figured out?
A. Of the total per cent?
Q. Yes.
A. 38.30. Let me get that straight. You have the year 1905: You have a percentage of intra-state and the percentage of the gross total is 29.27, and that multiplied by 1½ is 43.90.
Q. I don't understand how you get it, if you say 4 mills per ton moved or the inter-state freight, and it costs 50% more to move the State freight, how you make that simply 6 mills per ton mile: That is the question Mr. Ladd asked you?
A. I understand.
Q. I understand perfectly how Mr. Sturgis' example works out and how it has always been worked out in all these cases. How do you arrive at it? If you were given 4 mills per ton expense, with nothing more, could you find out how much more it costs to do the State business?
A. Not with that single factor.
Q. That is what I am getting at: How can you with that single factor figure it out?
A. If it costs 4 mills per ton mile to haul inter-state freight and it costs 50% more to haul State freight, it will cost 6 mills per ton mile on the State freight. But in getting at our calculation we did not know what it costs for either State or inter-state. Our basis is practically the same as that used by Mr. Sturgis, only in a different direction.

3553 Q. Now take the cost of 4 mills per ton per mile, that is a mere estimate: Could you tell anything about that cost, without you had the capacity of the car and the character of the goods carried?
A. No, sir, and the expenses incurred.
Q. So the way you have figured it out, in applying your 50 per cent, works it out practically as Mr. Sturgis worked it out and it would be for 1905, say 38.30 of the total expense of doing the business?
A. Yes, sir.

The MASTER:

Q. Wasn't that worked out in Exhibit 6? Isn't that what Exhibit 6 was for?
A. Yes, sir. That is, for the year 1904. Now we have the same thing for the year 1905.

Mr. HAGERMAN:

Q. Has that been put in?
A. Not for 1905.

Mr. HAGERMAN: I will offer in evidence that statement and ask that it be marked Exhibit 6-*a*.

The paper referred to is marked Complainant's Exhibit 6-*a* and is in the words and figures following to-wit:

3554 & 3555 Mr. HAGERMAN:

Q. So for the year 1905, to work out your example of 50 per cent, whatever the total expenses for moving both State and inter-state business would be, 38.30 per cent of it ought to be applied to the local business?
A. If 50 per cent is a fair basis.
Q. If it were three times you would multiply your 29.27 by 3 instead of 1½?
A. Yes, sir.
Q. And if 5 was the multiple you would multiply by 5 instead of 3, and so on?
A. Yes, sir.

Recross-examination.

By Mr. LADD:

Q. You still adhere to your answer? Assuming, it is purely an assumption because I don't know what it is, but assuming it costs 4 mills per ton per mile to handle and move State freight, when you speak of adding 50 per cent on your Page 1 of Exhibit 5 for the cost of handling State freight, if it costs 4 mills, what would it cost to handle the State freight, how many mills?
A. 6 mills is still my answer.

Mr. HAGERMAN:

Q. And you still adhere to what you told me, that given just that one factor in the case you could not tell anything about it as applied to these figures?
A. Yes, sir.
3556 Mr. LADD: What one factor do you mean?
A. The cost of handling inter-state, without the percentage of increase in handling State, is the factor.
Q. But you have both factors here, haven't you?
A. Yes, sir.
Q. You have the 4 mills and the 50 per cent?
A. Yes, sir.
Q. So you have both factors?
A. Yes, sir.
Q. So there is no trouble about it?
A. Not in this calculation.

Mr. HAGERMAN:

Q. In this question Mr. Ladd asked, assuming it costs 4 mills

per ton mile in moving inter-state, and adding 50 per cent, you said the cost for the State freight would be 6 mills: Would that have to be upon the assumption that the conditions were exactly the same in the movement of it?

A. Yes, sir, we would not take into consideration the conditions at all if the average cost was 4 mills on interstate and the average cost on State freight was 50 per cent more; I would say the average on State freight was 6 mills per mile.

Q. That would have to be upon the assumption that the conditions surrounding it were the same?

A. Yes, sir.

Mr. LADD:

Q. If the conditions surrounding the movement of it were the same, it would cost the same to move it, wouldn't it?

3557 A. Yes, sir.

Mr. HAGERMAN:

Q. Of course I did not mean exactly the same haul, but the same load in the car, and the same quality and quantity of stuff being loaded in the car?

A. I do not understand that would have any effect on the averages.

Q. You were just speaking of it from the standpoint of the averages?

A. Yes, sir.

3558 H. ROTH, recalled.

Cross-examination.

By Mr. LADD:

Q. Mr. Roth how are you engaged in the railway company's office?

A. I am engaged in the statistical department.

Q. What is your position?

A. I have charge of the special statistics.

Q. Are you an Auditor?

A. No, sir.

Q. What are you?

A. Just a clerk.

Q. Are you in some Auditor's office?

A. Yes sir.

Q. Whose?

A. Under Mr. Schuyler.

Q. He is the General Auditor of the company?

A. Yes sir.

Q. His office is here?

A. His office is at Seventh and Market streets, St. Louis.

Q. Are you in Mr. Schuyler's office or in some assist- or department auditor's office?

A. Some assistant's office. Not an assistant auditor's office, but an assistant's office.

Q. Assistant to Mr. Schuyler?

A. Indirectly yes, not directly.

3559 Q. You are in what might be called the General Auditing Department?

A. Yes, sir.

Q. Now when you were examined before, Mr. Hagerman asked you to have a statement prepared showing what the company would have received for the transportation of certain commodities mentioned in the Act of 1905, if it had charged up to the rate mentioned in that Act, and it was said that statement would be prepared and filed as Exhibit 8?

A. Yes, sir.

Q. Have you filed that yet?

A. No, sir.

Q. Will you please file that in connection with your evidence and we will call it Exhibit 12 instead of Exhibit 8?

A. Yes, sir.

The paper referred to is marked Exhibit 12.

Exhibit 12 is in the words and figures following, to-wit:

3560 Q. I think you stated, when you were here before, that your connection with the preparation of this statement Exhibit 5, and Exhibit 5-*a*, was with the matter of earnings as distinguished from expenses: Is that right?

A. Yes, sir, that is correct.

Q. Now on Page 1 of Exhibit 5-*a* the statement shows that the decrease in earnings during 1904, if the company had put in force the rates prescribed by the Act of 1905, would have been $66,425.19: Is that right?

A. That is correct.

Q. I understand that for the transportation of some of the commodities mentioned in the Act of 1905, the company did in 1904 charge less than the rates prescribed in the Act of 1905.

A. I believe so.

Q. Now is this statement, this Exhibit 12, which you have just handed in, intended to show how much they actually received on certain commodities, and how much they would have received if they had charged the rates fixed by the Act of 1905: Is that correct?

A. That is correct.

Q. The articles on which they charged less than the rates fixed by the Act of 1905 were agricultural implements, cement, flour, grain, live-stock, lime, lumber and so forth: Is that right?

A. Yes, sir, that is correct.

Q. And they actually received how much?

3561 A. $28,873.66.

Q. For the transportation of those articles?

A. Yes, sir.

Q. How much would they have received for the transportation of

the same articles, if they had charged the rates fixed by the Act of 1905?

A. $46,116.40.

Q. What is the difference between those two amounts?

A. $17,242.77.

Q. Under the figures on this statement showing the increased revenue which the company would have received, $17,242.77 I find the figure $16,244.82: What does that mean?

A. That means that so far as the rate alone is concerned, we would have earned that much more money during the year 1904. The $997.95 immediately below that would have been received if we had received the full maximum weights allowed by the Act of 1905, instead of the weights that we charged on the way-bills.

Q. What is the result of all that? You would have received $17,242.74 or $16,242.82?

A. It would be impossible to determine what we would have received.

Q. It would have been one of those two amounts or some amount between them, is that it?

A. Yes, sir.

Q. How much larger percentage of revenue would you have received on those articles during those years if you had charged up to the rates of 1905?

3562 A. You mean of the revenue we actually received on those articles, or the total?

Q. How much more total per cent would you have received?

A. 59.07 per cent.

Q. Take the year 1905: How much did the company receive, charging the rates it did on those articles?

A. $40,274.37.

Q. And how much would it have received if it had charged 1905 rates?

A. $65,553.82.

Q. And would have received $25,279.45 more than it did receive, if it had charged on those commodities the rates at which it was allowed to charge by the Act of 1905: Is that it?

A. Yes, sir.

Q. In figuring up your losses which you would have sustained—I mean, in figuring up the diminution of revenue which would have resulted from the operation of the new Act, as shown on Page 1 of Exhibit 5-*a*, in arriving at the amount which you would have received if the Law of 1905 had been complied with, did you take the revenue for the actual mileage?

A. No, sir. In some cases we did and in some cases we did not.

Q. You stated on your direct examination, a couple of weeks ago, that between St. Louis and Sedalia you used a rate on 150 miles.

A. I believe that was an error. I think it was 175 miles we actually used.

3563 Q. Do you know whether you did or not?

A. Yes, sir, I do know. I was mistaken at the time. I

thought it was 150. The basis was 163 miles, the distance between Sedalia and Louisiana via Marshall over the C. & A.

Q. In figuring up those rates between St. Louis and Sedalia you said you used "I think it is 155 miles rate" and now you say it is 175 miles?

A. Yes sir.

Q. What is the distance from St. Louis to Sedalia?

A. 188 miles.

Q. Is there any shorter route from St. Louis to Sedalia than the Missouri Pacific Railway affords?

A. Not that I know of.

Mr. HAGERMAN:

Q. How did they figure it 175 miles: There must be some reason.

A. All the rates we used in figuring from St. Louis to Kansas City are based either on the short line mileage or on the conditions generally governing the rates between the two rivers, the Mississippi and the Missouri.

Mr. LADD:

Q. Then in calculating what you would have received on these commodities that have been mentioned, if you had charged the rates allowed by the Act of 1905, on a shipment from Sedalia to St. Louis, you counted the distance 175 miles instead of 188 miles: Is that right?

A. Yes, sir.

Mr. HAGERMAN: Let him finish the explanation of why he did that.

Mr. LADD: I let him finish.

3564 Mr. HAGERMAN: You interrupted him.

The MASTER: He can add his explanation afterwards.

Mr. LADD:

Q. In some instances didn't you figure it on the basis of 150 miles?

A. I cannot say. I did not figure any of these distances.

Q. Who did?

A. Our Traffic Department prepared a special tariff applicable to St. Louis and Kansas City, and those figures were used in compiling these statements.

Q. And who did figure out this statement Exhibit 12? Where is the man who would know?

A. Mr. Stith I believe, in his testimony, explained the basis on which it was figured.

Q. Who did the figuring on Exhibit 12?

A. The men under my charge.

Q. And you say you are unable to state whether in some cases you figured the distance from St. Louis to Sedalia at 150 miles?

A. My impression is it was figured at 175 miles.

Q. If you say you know it was, that is the end of it, of course.

You have already said that the Missouri Pacific has the shortest line between Sedalia and St. Louis?

A. I said to the best of my knowledge it had.

Q. And it is 188 miles?

A. Yes, sir.

Q. Then why is it figured at 175 miles?

3565 A. Because the rates between St. Louis and Sedalia are governed by the short line between Louisiana and Marshall.

Q. The short line between what?

A. Between Louisiana, Missouri, and Marshall, Missouri.

Q. Louisiana?

A. Louisiana. It is the nearest Mississippi River point to Sedalia. It is 163 miles I believe from Sedalia.

Q. 163 miles from Sedalia to where?

A. Our Traffic Department maintains they could not get a higher rate than Sedalia-Louisiana rate between Sedalia and St. Louis.

Q. It is 163 miles from Sedalia to Louisiana: Is that right?

A. Yes, sir.

Q. How far is it from Louisiana to St. Louis?

A. I have no idea.

Q. It is far enough so as to make the sum of the two lines more than 188 miles?

A. Undoubtedly.

Q. And it still remains that the shortest distance between Sedalia and St. Louis by any railroad in this state, is over the Missouri Pacific 188 miles, isn't it?

A. I presume so.

Q. If this had been figured upon the basis of 188 miles, this additional revenue would have been greater than is shown in this statement?

A. But the previous revenue was not figured on the basis of 188 miles and for that reason we could not apply it. In the

3566 year 1904 we figured only on 163 miles. We took the conditions that prevailed during the year 1904, as well as the more rate, of course, and for that reason——

Q. How did you do in 1905?

A. The same thing.

Q. There was not any law to prevent you from charging according to the mileage rate?

A. Only the law of competition.

Q. Competition?

A. Yes, sir.

Q. Is there any railroad in this State, Mr. Roth, or any means of transportation in this State, that can compete on equal terms with the Missouri Pacific Railroad for freight going from Sedalia to St. Louis?

A. I presume not.

Q. Take it from St. Louis to California: How many miles is that?

A. From St. Louis to California is 150 miles.

Q. On what basis do you figure that, what mileage?

A. 125 miles, as I recollect.

Q. Why?

A. As I have already explained, the reason is that our Traffic Department figured on a sliding scale between the rivers, as the distance between St. Louis and Kansas City had to be figured at 200 miles, the intermediate points naturally had to be reduced on a sliding scale.

Q. There is not any other railroad at California but the Missouri Pacific?

3567 A. No, sir.

Q. Going in any direction?

A. No, sir.

Q. You have a monopoly there, haven't you?

A. I believe so.

Q. And yours is the shortest line from California to St. Louis, and the only railroad line: That is true, isn't it?

A. That is true.

Q. I think you have tried to explain, but I wish you would do it again, why you charge for only 125 miles in making these calculations, when it is 150 miles.

A. That is a traffic matter which I cannot explain.

Q. Take the town of Elston up near Jefferson City: How far is it from St. Louis to Elston?

A. I don't know the exact distance.

Q. Have you a table you can refer to?

A. Yes, sir. (After consulting time table:) 134 miles and a fraction.

Q. On what mileage did you make these computations?

A. 125 miles.

Q. Is there any shorter line to St. Louis from Elston than the Missouri Pacific?

A. No, sir.

Q. How many miles is it from St. Louis to Tipton?

A. 163 miles.

Q. And how many miles did you make these computations of what you would have received if you had charged the rates

3568 provided for in the Act of 1905?

A. 150 miles I believe, to the best of my recollection.

Q. Have you any means here of telling?

A. No, sir.

Q. I ask you if you had, because I understand it was 125 miles.

A. Maybe you are right. I do not recollect.

Mr. HAGERMAN:

Q. That is something that can be easily ascertained if anyone wants to know?

A. Oh, yes.

Mr. LADD:

Q. Take it from St. Louis to Centertown down: How far is that?

A. 140 miles.

Q. What basis of mileage do you take for your calculation from St. Louis to Centertown?
A. 125 miles.
Q. Is there any shorter line to St. Louis than yours?
A. No, sir.
Q. How about Hermann? How far is it from St. Louis?
A. 81 miles.
Q. What mileage do you allow in your computation from St. Louis to Hermann?
A. I don't recollect.
Q. Wasn't it 50 miles?
A. I don't think so.
Q. You don't think so?
A. No, sir, I do not. If it was it might have been in an individual case; but as a rule I think we used the full distance
3569 on Hermann. At Hermann there might be river competition. As I say, the Traffic Department figured out the basis of those rates and I am not entirely familiar with them.
Q. How far is it from St. Louis to Bowles?
A. 48 miles.
Q. What basis of mileage did you take for that case?
A. I should say 50 miles.
Q. Are you certain about that?
A. As a general thing I should say yes.
Q. In figuring up what you would have earned if you had charged up to the rates of the Act of 1905 for transporting freight from St. Louis to Bowles, did you put it at the rate of 48, 50 or 25 miles?
A. 50 miles I should say.
Q. You have added to it there a little.
Mr. Roth, have you any idea how much more than this $46,116.40 would have been in 1904 the revenue under the Act of 1905 on these commodities, if you had charged the mileage rate instead of charging for less than the number of miles which you actually transported?
A. I don't think I have stated that we charged less than the actual number of miles, on this particular statement. As a matter of fact, I put the rates myself on this statement and I took the full tariff distance in all cases.
Q. On this statement Exhibit 12?
A. Yes, sir.
Q. In figuring up the decrease in earnings, as shown on Page 1 of Exhibit 5*a*, did you in figuring up that diminution use
3570 the actual mileage or less than the actual mileage?
A. Less than the actual mileage.
Q. What difference would it have made if you had figured upon the actual mileage?
A. I have no idea.
Q. You don't know?
A. No, sir.
Q. For either year?
A. For either year.

Q. You say that in figuring out this Exhibit 12, the amounts you would have received more than you did receive, you did figure on this exhibit on the basis of the actual mileage?

A. Yes, sir.

Q. But on Page 1 of Exhibit 5-*a*, in figuring up the diminution, you figured on these mileages which were in many cases, or some cases at least, less than the actual mileages?

A. In some cases.

Mr. HAGERMAN:

Q. Isn't Exhibit 12 gotten up in just the way you asked for and wanted it?

Mr. LADD: I am not complaining about the way the statement is gotten up.

Mr. HAGERMAN: We thought you wanted every possible item of revenue that could have been made.

Mr. LADD: I don't know that I asked for it. I think you did.

The MASTER: I think the Master asked for it.

Mr. LADD: It does not make any difference who asked
3571 for it. As a matter of fact I did not. I am perfectly satisfied with it.

Mr. LADD:

Q. This Exhibit 12 is right and computed on a proper basis?

A. No, sir.

Q. It is computed on a wrong basis?

A. The entire theory of Exhibit 12 is wrong.

Q. How much of this $66,425.19 decrease in earnings at new rates in 1904, as shown on Page 1 of Exhibit 5-*a*, would have arisen on the transportation of live-stock to the Kansas City stockyards?

A. That I cannot say. We have no figures to show that at all.

Q. Could you ascertain that?

A. Undoubtedly it could be ascertained. It would involve a great deal of work. There are twenty-four months of rough sheets to go through.

Q. You cannot tell me about that for 1905?

A. No, sir.

Mr. HAGERMAN:

Q. The material is there where their experts can make that up if they want it?

A. Certainly.

Mr. LADD:

Q. Have you included in this calculated decrease of earnings under new rates, of $66,425.19 for the year 1904, shown on Page 1 of Exhibit 5-*a*, the loss which would have accrued to your company on the transportation of live-stock to the Kansas City stockyards?

A. Have we included it?

3572 Q. Yes.

A. Yes.

Q. And you included the losses on the same kind of transportation as shown in the figures for 1905, did you?
A. Yes, sir.

The MASTER: That is to say, as I understand Mr. Ladd, that on live-stock transported to or from Kansas City stockyards, and destined to or originating at points in Missouri, were treated as local or State freight?
Mr. LADD: That is what I understand him to say.

The MASTER:

Q. Is that correct Mr. Roth?
A. That is correct.

Mr. LADD:

Q. Have you ever been up to Kansas City to those yards?
A. I have been in the yards, yes, sir.
Q. Do you know where your company unloads stock there received from points in Missouri?
A. Approximately I do.
Q. It is in the State of Kansas, across the line, isn't it?
A. Yes, sir.
Q. In figuring the losses on live-stock which you would have received by the application of the Act of 1905, did you apply less than full rates fixed by the Law of 1905 on "Feeders"?
A. Yes, sir.
Q. How much less?
A. We took 25 per cent, which was the allowance made
3573 in 1904 under the old rates. We could not get the comparative statement at the new rates, unless we took that into consideration.
Q. You carried "feeders" or stock cattle, at 75 per cent less than you did others?
A. 25 per cent.
Q. Yes, that is what I meant to say, 25 per cent less.
A. Yes, sir.
Q. Please look at Exhibit 8, Page 1, headed "Amount of intrastate and inter-state carload freight handled at stations on the Missouri Pacific Railway named herein, in October, 1905:" Was that statement prepared in your office?
A. Yes, sir.
Q. On the foot of the second page of that exhibit I wish you would explain what that 77 per cent means.
A. You mean in the "State" column?
Q. It is the only 77 per cent there is. Yes, it is at the foot of the column headed "State."
A. That is the percentage which the number of cars, 2158, bears to the total number of cars, or 2805, which would have been necessary at those stations for loading purposes, in excess of the loaded cars hauled in there and unloaded.
Q. That does not purport in any degree, does it, to show car mileage: It is just the number of cars: Is that right?

A. It certainly does not show any mileage but it shows the number of empty cars that would have to be hauled.

Q. This statement does not show anywhere how far the cars had to be hauled, does it?

3574 A. No, sir.

Q. And does not pretend to?

A. No, sir, it does not pretend to.

Q. The most it shows is the number of empty cars: That is right?

A. The empty cars that would be necessary for loading.

The MASTER:

Q. What is that word "number of empty cars to supply def.": What does "def." mean?

A. Deficiency.

Mr. LADD:

Q. This statement was offered in evidence and commented on by Mr. Doddridge when he gave his testimony?

A. Yes, sir.

Q. It was prepared for him, was it?

A. Yes, sir.

Q. He did not prepare it himself? You say you prepared it in your office?

A. That is right.

Q. Is the number of empty cars shown in these last two columns under the heads respectively of "State" and "inter-state" the result of actual count?

A. Yes, sir.

Q. Actual count?

A. No, sir, not the actual count of the number of cars. It is taken from the way-bills. In making the statement we took October figures into consideration. It was not worked out for November and December. We could not go back and count the cars.

3575 Q. Take the second town in this list, Coleman: This shows under the head of "State" 568 cars and under the head of "inter-state" 9 cars: What does that mean?

A. That means that there were forwarded from that station 568 more loaded cars than they had received loaded cars in; and those 568 cars would have to be hauled in empty to supply the deficiency in the number of cars required for loading.

Q. How did you arrive at that?

A. By taking the cars bound in and the cars bound out during that month.

Q. Did you keep any record of empty cars sent to that station, Coleman?

A. No, sir.

Q. You did not?

A. No, sir.

Q. Then how do you know there were 568 empty cars sent to Coleman during that month?

A. If they had not been sent there they could not have come out.

Q. You think they were empty when they went there because they were loaded when they came out: Is that the only reason you have?

A. They were loaded when they left there.

Q. You think they were empty when they came there because they were loaded when they left there?

A. Undoubtedly.

Q. Isn't it possible for a car to go into Coleman loaded,
3576 and be unloaded, and then come out loaded the next day?

A. No, sir. We have the number of cars that went in loaded and the number of cars that came out loaded. We deducted the number that went in loaded.

Q. Let us see what you actually do know from your records: What do you know from your records about the carload business from that station, actually?

A. We know that a certain number of cars were received loaded at that station.

Q. Received loaded?

A. Yes, sir, received loaded.

Q. That were taken into that station loaded?

A. Taken into that station loaded.

Q. That you know actually?

A. That we know actually.

Q. That is not inference or guess work or anything else?

A. No, sir.

Q. How many cars were taken into that station loaded?

A. I cannot tell you that from the papers I have here.

Q. What else do you know actually?

A. We know the actual number of cars hauled out loaded.

Q. You know the number of cars hauled in loaded and hauled out loaded?

A. Yes, sir, we know that they were loaded at that point.

Q. Now what else do you actually know?

A. You mean in connection with this matter?

Q. Yes. What else do you know in connection with the
3577 carload business at that station?

A. We know what proportion of those cars that went in were State traffic and we know what proportion of the freight that went out was inter-state traffic and we know also what proportion is State traffic. If we have the total inbound and deduct the total outbound, it leaves of course a balance and in this case it was 568 cars.

Q. You take the total inbound State cars?

A. Yes, sir.

Q. And deduct them from the total number of loaded outbound State cars?

A. Yes, sir.

Q. For instance, you took into that station 100 loaded cars of State freight and you bring out 105 loaded cars of State freight: Is that an illustration?

A. Yes, sir, that is an illustration.
Q. How do you find the number of empty cars?
A. By taking the 100 from the 105: That would leave us 5 cars.
Q. And you say 5 empty cars would have to be hauled into that station, for that reason?
A. Yes, sir.
Q. Now the 100 cars that go in are State freight?
A. Yes.
Q. And the 105 cars that come out are State freight?
A. Yes, sir.
Q. That is the way you get at it?
A. Yes, sir.
3578 Q. That is the way this table is prepared?
A. Yes, sir.
Q. And you do not allow for the possibility or probability that if a carload of inter-state freight comes into Coleman to-day and is unloaded in the morning and it is standing there when you have a carload of State freight to be loaded at Coleman, that that carload of State freight should be put into that car which brought the inter-state freight in there the day before?
A. That could not be the case, because in addition to hauling in State cars we had to haul in 9 inter-state cars; therefore there could not be any deficiency of inter-state cars.
Q. That is true in all cases?
A. In the majority of cases it is.
Q. In the cases where that is not true, how do you get at the empty cars?
A. We do the same thing, because we assume that if there were a certain number of State cars over that could not be loaded, they would have to be hauled away empty, just as much as if they were short of cars to be loaded and they had to be hauled in empty.
Q. Why could not inter-state freight be put into empty cars which had the day before been brought in with State freight?
A. We got the figures both ways and we found that empties that had to be hauled out, both State and inter-state, nearly balanced, slightly in favor of the State busines. And even if you take
3579 that movement into account, the proportion would still be 70 per cent State and 30 per cent inter-state.
Q. You have taken into consideration the fact that inter-state freight might come in in a car to a station, and State freight go out the next day in that same car?
A. Not in this statement.
Q. That is possible for that to happen?
A. It might happen.
Q. And it might have happened in this case?
A. It might have happened in one or two.

The usual hour for adjournment having arrived, the further hearing of proceedings herein is adjourned until to-morrow, Friday, February 1, 1907, then to be resumed at ten o'clock a. m. in the District Court room of the United States Court in the Federal Building in the City of St. Louis, Missouri.

3580 ST. LOUIS, MISSOURI, *Friday, February* 1, 1907.

Met pursuant to adjournment as above on Friday, February 1, 1907, in the United States District Court room in the Federal Building in the City of St. Louis, Missouri.

Present: Mr. F. L. Schofield, Special Master.

Messrs. M. L. Clardy and F. Hagerman appeared in behalf of the Complainant.

Messrs. S. B. Ladd and John Kennish appeared in behalf of the Defendant.

The following proceedings were had:

Cross-examination of H. ROTH continued as follows:

By Mr. S. B. LADD:

Q. Mr. Roth, I think you stated that all of the loading and unloading places of the Missouri Pacific Railway at the Kansas City stockyards were in Kansas?

A. All the loading and unloading?

Q. Yes, for the Kansas City stockyards.

A. To the best of my knowledge they are.

Q. Now in looking at Page 1 of Exhibit *5a*, in figuring out the decrease in earnings which would have resulted from carrying freight at the rates fixed by the Act of 1905, have you included in that losses or diminution in revenue which would have been realized by the transportaion of live-stock from Missouri points to the Kansas City stockyards, and from the Kansas City stockyards to Missouri points?

A. Yes, sir. I think you already asked me that question yesterday.

Q. I asked you about into the stockyards but I was re-
3581 minded afterwards that I did not ask you about from stockyards. Perhaps you answered that.

You do not know, I think you said yesterday, what that amounts to, that part of the freight?

A. No, sir.

Q. Either revenue or losses?

A. No, sir.

Q. Please look at Exhibit 8, Page 1, which was offered in connection with the testimony of Mr. Doddridge: You said that no record had been kept of the empty cars: Is that right?

A. I don't think I said anything of the kind, sir. So far as this statement is concerned?

Q. So far as this statement is concerned.

A. Yes, sir.

Q. In order to prepare this statement did you go to your record of empty cars?

A. No, sir.

Q. You did not ascertain the number of empty cars then to supply the deficiency as shown in this statement, from an examination of any record of empty cars?

A. No, sir. I think I explained fully how we arrived at that, yesterday.

Q. I expect you did but I did not understand it very well and I want to ask you a few more questions about it.

If you will look down the list about the middle of the first page you will find Hermann?

A. Yes, sir.

Q. And in the next to the last column under the head of
3582 "State" you will find a figure "10": What does that mean? What does 10 mean there?

A. That means we were 10 cars short on the State business.

Q. Explain that a little more fully.

A. It means that only 2 cars went into Hermann loaded with State business but that 12 cars were loaded there and shipped out.

Q. Well.

A. Which would necessitate the supplying of 10 cars for loading purposes on State freight.

Q. Now let me see if I understand: You ascertained the results of empty cars on account of State business, as shown in this exhibit, by in the first place taking the number of State cars loaded into the place: Is that right?

A. Yes, sir.

Q. And then the number of State cars loaded out of a place?

A. Yes, sir.

Q. And if the State cars loaded out of a place exceed in number the carloads of State freight loaded into a place, you will say that the difference between those two numbers is the number of empty cars that have been hauled to that place to accommodate the outgoing State freight: Is that right?

A. Not necessarily.

Q. Is that true in the case I have just asked you about, Hermann? That is the result of your statement about Hermann?

3583 A. No, sir, not exactly. You lose sight of the fact that there is both State and inter-state business at Hermann. I am endeavoring to show the State business as separate from the inter-state.

Q. Then I will ask you again: You say there were 10 empty cars sent into Hermann in order to accommodate State business?

A. Yes, sir.

Q. How many loaded State cars went into Hermann?

A. Two.

Q. How many went out?

A. Twelve.

Q. The two and the twelve you ascertained from your records?

A. From our way-bills.

Q. Then I understood you to say it followed from that, that there having been only two cars in and twelve out it must have taken ten empty cars to accommodate the whole outgoing freight?

A. That is what I said.

Q. And that is the way you arrived at it?

A. That is the way I arrived at it.

Q. What does the "31" in the second column under the head of "inter-state" mean?

A. That is the number of inter-state cars handled at Hermann.
Q. In and out?
A. Yes, sir, in and out.
3584 Q. Do you know how many were handled in?
A. Yes, sir.
Q. How many?
A. 14.
Q. And how many handled out?
A. 31.
Q. Loaded cars?
A. No, sir, that is an error. I should have said 24 in.
Q. 24 loaded cars in?
A. Yes, sir, and 7 out.
Q. 7 loaded cars out?
A. Yes, sir.
Q. See if I understand that: There were 31 cars of inter-state freight handled at Hermann, 24 loaded in and 7 loaded out?
A. Yes.
Q. What became of those other 17 cars that were loaded in?
A. I cannot say.
Q. You do not know?
A. I do not know. They might have been used for——
Q. Wait a moment. Why didn't you use 10 of those cars to accommodate this State freight which was going out?
A. I cannot assume that those 10 cars would have been suitable for loading the State freight that was going out.
Q. What became of those 17 cars, the difference between
3585 the inter-state loads in and the inter-state loads out?
A. They would have to be hauled away.
Q. They would have to be hauled away?
A. Yes, sir.
Q. Have you shown it under the head of "hauled away inter-state cars" in your last column?
A. No, sir.
Q. Why haven't you?
A. I can give you the figures.
Q. Why haven't you shown that here?
A. We did not take that into consideration. Had the hauling out of State cars and the hauling out of inter-state; there would have been no difference in that particular item.
Q. You did not think it necessary to show that, but you thought it necessary to show the number of empty cars brought into Hermann in order to accommodate the State business going out: Is that it?
A. In a way, yes.
Q. Is that the theory upon which this statement is prepared?
A. There are very few stations which will make any such showing as that. I could go through these stations one by one, and you will find it very seldom the case there is anything to haul away in the State or inter-state freight.
Q. That showing appears in the case of Hermann?

A. In the case of Hermann, yes.

Q. So it is fair to say that this statement put in here as Exhibit 8 does not show the number of empty cars which have been
3586 hauled on account of the inter-state business?

A. It does show just as much as it does on State business.

Q. It does not show them all in here?

A. We do not profess to show the cars hauled out. It shows the cars hauled in, on the same basis, both State and inter-state.

Q. What is the difference Mr. Roth, if you please, practically, between hauling empty cars into a place to take freight out, and hauling empty cars away from a place, which have brought freight in?

A. Oh, it does not necessarily follow that you would have to haul the empty cars away.

Q. What would you do with them, leave them there to rot?

A. They might be used for loading.

Q. They were not in the case of Hermann, were they?

A. I cannot say.

Q. Those cars that went in there loaded with inter-state freight, might not they have been used for hauling away State freight, so that no empty cars were hauled into Hermann at all to accommodate State freight: Isn't that possible?

A. It is possible.

Q. That is what I thought.

Now at the foot of this statement is "77 per cent"?

A. Yes, sir.

Q. That is the percentage shown by this statement of the number of empty cars to supply the deficiency on the State business of the whole number of empty cars to supply the deficiency
3587 on both kinds of business, isn't it?

A. Yes, sir.

Q. 77 per cent?

A. Yes, sir.

Q. That is the number of cars?

A. Yes, sir.

Q. This statement does not purport to show anything about the mileage, does it?

A. No, sir.

Q. I ask you that because I understood Mr. Doddridge to speak about mileage. I suppose he did not mean it in a technical sense.

A. I suppose not.

Q. This does not show anything about how far those cars were hauled, does it?

A. No, sir, it did not attempt to do that.

Q. Suppose you haul a car loaded, into a station, on the first day of the month: You send out two cars loaded on the last day of the same month: Would you keep that car which was there on the first day of the month until the last day of the month, to accommodate one of those loads that went out: Would that be probable?

A. No, sir, I presume not.

Q. Then in such a case as that what would you say would be the deficiency of empty cars in order to accommodate the business?

A. You take the whole number of cars——

3588 Q. Suppose that is all the carload business of that station. One goes in the first day of the month and two come out the last day of the month and that is the total carload business of that station: What did you say is the deficiency of empty cars for that station?

A. One.

Q. How do you do that?

A. One went in and two went out.

Q. You say they would not hold a car for a month?

A. You are just making an assumption. That is a case that is not likely to occur.

Q. I am just asking you. Do you think cars go into a station loaded just as they require them to go out loaded?

A. No, sir, I do not.

Q. Does this statement of loads in as applied against loads out mean anything?

A. Yes, sir, it means a whole lot.

Q. There is nothing to show, is there, in any records which have been examined in order to prepare this statement, that the cars which went into any station loaded came out loaded?

A. No, sir.

Q. The cars which went in loaded might have come out empty: That is true?

A. The assumption is, if it went in empty it came out loaded.

Q. I asked you if the cars that went in loaded might

3589 have come out empty: Is that right?

A. Yes, sir.

Q. And, therefore, isn't it true that the number of empty cars necessary to do the business might have been even greater than this statement shows?

A. Very much greater.

Q. Both for State and inter-state?

A. Only in the same proportion.

Q. I will ask you if this Exhibit 8 is not based upon the assumption that none of the cars which go into a station loaded with inter-state freight come out loaded with State freight?

A. No, sir, hardly that.

Q. You say hardly that: How close is it to it?

A. It is possible that some of the cars left over from the inter-state business in would be used for loading State freight. But we cannot assume that they could all be used for that purpose.

Q. Haven't you assumed in this statement that none of the inter-state cars loaded in have been used for loading State freight out? Isn't that the basis upon which this statement has been prepared?

A. No, sir, because we have treated State and inter-state alike, and you are making the assumption all on one side. We have treated State and inter-state alike, and on the same basis.

Q. You have assumed, have you, that cars which go into
3590 a station loaded with State freight, if they go out loaded at all are loaded with State freight: And that cars going into a station loaded with inter-state freight, if they come out loaded at all, are loaded with inter-state freight?

A. No, sir, we have not assumed that. We have assumed that if a certain number of cars loaded with a certain class of freight went into a station loaded, and a certain number of cars loaded with a certain kind of freight went out of that station, we would use one set of figures against the other. But we did not necessarily assume that the same car went in loaded and went out empty.

Q. Show me a case of this statement where a car going in loaded with inter-state freight went out loaded with State freight.

A. We did not prepare the statement in that way.

Q. Show me a case where you proceeded on the assumption that a car loaded with inter-state freight going into a station went out loaded with State freight, although it was there waiting for a load.

A. I cannot do that way, because I have no records of that.

Q. It was in connection with Mr. Doddridge's testimony that this exhibit was offered in evidence, and he said he did not prepare it himself but he testified in this way: "I assume that they took the total number of loads of State business, the total number of loads of inter-state business, and then divided the total empty car mileage by these per cents arrived at in that way. I presume that
3591 was the way it was ascertained."

Is that the way it was ascertained?

A. I did not follow that. Will you kindly read it again?

Q. You may read it from the record.

A. (After examining record.) I do not understand the meaning of that.

Q. You have read Mr. Doddridge's answer which I read to you?

A. Yes, sir.

Q. You have read it in the report of the testimony?

A. Yes, sir.

Q. And you say you do not understand it?

A. I do not understand it.

Q. I asked you if it was ascertained in the way Mr. Doddridge thought it was.

A. I cannot understand the answer and therefore I do not know whether it was or not.

Redirect examination.

By Mr. HAGERMAN:

Q. You do not understand what Mr. Doddridge means?

A. No, sir, I do not understand what Mr. Doddridge means.

Q. Mr. Roth, as illustrations of the way cars could go in loaded and would not be used for reloading, take the place of coal going into Hermann in coal cars: There would be a place where there would be no coal to come out?

3592 A. No, sir.

Q. Take a box car loaded into Hermann, that could not be used to haul out live-stock, could it?

A. No, sir.

Q. So if livestock was to be shipped at the same time from Hermann, there would be an empty car going in for it?

A. Yes, sir.

Q. And those are illustrations that would be applicable all over the System?

A. Yes, sir, I should say from those stations on the Missouri Pacific.

Q. And that could be carried out as applied to the different kinds of products almost without any limit?

A. Yes, sir.

Q. Now if I understand you, upon Exhibit 5-a, the third item, the decrease in earnings at new rates for 1904 $66,425.19 and for 1905 $74,699.68, that was based upon the estimate of actual mileage allowed in the actual tariff in force on the Missouri Pacific Road?

A. Yes, sir.

Q. And when you say that the tariffs are matters that the traffic department must explain, what you mean is the theory upon which the tariffs are made?

A. That is what I intended to say.

Q. What you did was to take it upon the tariff sheets actually in force and just as the Missouri Pacific did business, and you made that computation with that result?

3593 A. Yes, sir.

Q. When you came to make Exhibit 12, the idea of making that was not, as I understand you, that you claimed there ought to be any such deduction, but because the State was making some such claim, to give the figures what it would amount to in the extraordinary nature of their claim: Is that right?

A. That is the idea of the Exhibit.

Q. And to see where the proposition would lead us, in making up that statement how did you allow for the mileage? The mileage according to the tariff or all the possible mileage, in accordance with the mileage of the traffic?

A. All the mileage possible. That is to say, the full distance tariff mileage.

Q. If the third item I gave you in Exhibit 5-a had been computed upon the basis of the actual number of miles, irrespective of the tariff sheets, about what difference would it have made: Do you recall?

A. Well I never actually worked the figure out.

Q. About what would it be?

A. I should estimate about nine or ten thousand dollars.

Q. For each year?

A. Yes, sir, for each year.

Q. Mr. Roth, something was said or the inference left, that you were a clerk: What is the nature of your duties and in what department?

3594 A. I have charge of a special force working on the statistics.

Q. And who is Chief in that department?

A. Mr. Nugent is Chief but I am not under his jurisdiction in any way.

Q. Under whose jurisdiction are you?

A. Mr. Schuyler's.

Q. He is the General Auditor?

A. Yes, sir.

Q. What is the particular work to which you are assigned by Mr. Schuyler?

A. In statistics of a special nature, that requires special knowledge as to the location of stations, or general knowledge of the business of the Company, is generally intrusted to me to get up.

Q. And how many men have you under you?

A. That varies very much according to the conditions of the work. I have had as many as 250.

Q. Whatever the number of men necessary in your work, you have?

A. Yes, sir.

Q. The point I am leading up to is, is there anything about these figures that Mr. Schuyler as General Auditor, that is General Auditor of the Company, would know except what you or someone in a like position would go and compile for him?

A. No, sir, he could not possibly know the detail as we would.

3595 Q. In preparing for this case you were the man selected to compile the figures applying to the earnings, in Exhibits 5 and 5-*a*?

A. Yes, sir.

Q. And Mr. Johnson was the man assigned to get up the figures applying to the expenses?

A. Yes, sir.

Q. And the joint figures together formed the statement?

A. Yes, sir.

Q. You said something about the stockyards at Kansas City: What you meant to say is that the chutes at which the cars of stock are unloaded is across the State line in Kansas?

A. Yes. sir, that is what I understand.

Q. Have you information or can you tell us about where the main yards or main stations are?

A. No, sir, I have no information on that subject.

Recross-examination.

By Mr. S. B. LADD:

Q. You spoke in your re-direct examination just now, estimating that the difference would be nine or ten thousand dollars: What difference do you refer to?

A. Treating the decrease shown on Exhibit 5-a, Page 1, I estimate that if we had applied the full distance tariff rates in lieu of the proportionate rates, based on the tariffs in force in 1904, the

decrease would probably have been nine to ten thousand dollars less on each year than is shown on this statement.

3596 Q. Your first figures on this Page 1 of Exhibit 5-a purports to show the earnings on commodities affected, at the old rates to be $212,677.10 for 1904?

A. Yes, sir.

Q. Now those earnings were on the basis of in some cases you say—I want to know whether you do say—a mileage shorter than the actual mileage: Is that right?

A. Yes, sir.

Q. Those are the earnings actually collected?

A. Yes, sir.

Q. Now the next figure is "earnings on same commodities at new rates $146,251.91:" In that case do you take the actual mileage or the short mileage?

A. The actual mileage in some cases and the short mileage in others.

Q. I know, but did you take the short mileage and the actual mileage in the same way in both cases: In showing your actual earnings and in showing what your earnings would have been on the same commodities at the new rates, did you use the same system of calculation?

A. Yes, sir.

Q. So that the decrease in earnings at the new rates shown as $66,425.19 is reached by a calculation upon the same system of mileage?

A. As what?

Q. As the two above.

A. Yes, sir. That is actually the difference between the two, and must necessarily be so.

3597 Q. That is quite true. You do not use one system of mileage in showing your actual earnings and another system of mileage in showing what you would have earned if you had complied with the new rates: You use the same system?

A. Yes, sir.

Mr. HAGERMAN: I think if we would use the term "tariff mileage" and "actual mileage" it would probably tend to keep us away from any confusion.

Mr. LADD:

Q. What did you mean by the nine or ten thousand dollars' difference, in answer to a question of Mr. Hagerman's?

A. I mean if we had used the full rates allowed by the full mileage, under the Law of 1905, we would have earned about $156,000 instead of $146,000.

Mr. HAGERMAN:

Q. And that would have reduced the decrease?

A. Yes, sir, it would have reduced the decrease by that amount—the difference.

The MASTER:

Q. In other words, the item shown in the exhibit "earnings upon same commodities at new rates," would have shown about $156,000 instead of $146,000?

A. Yes, sir.

Q. And the decrease, the third item there, would have shown instead of $66,000 substantially $56,000?

A. Yes, sir.

Mr. LADD:

Q. Now look at Exhibit 12, if you please if you have it
3598 before you: Exhibit 12 for each of the years 1904 and 1905 shows the revenue on certain commodities at the old rates, and the revenue on the same commodities, which would have been realized if the new rates had been applied?

A. Yes, sir.

Q. Is that figure on the basis of actual mileage or short mileage?

A. Actual mileage.

Q. Both of them?

A. No, sir, not both of them.

Q. Not both columns?

A. The first column, revenue at old rates, could not possibly be figured on the actual mileage, as it is the actual revenue we derive under the tariff mileage.

Q. And under the second column, under the head of "revenue at new rates," that was figured on the actual mileage?

A. That was figured on the actual mileage.

I would like to explain: If we take everything into consideration that affected the rates, under the old rates, under the column headed "old rates" there would not have been any such increase as is shown there. It is merely by taking the full tariff distance rates that we get that increase.

Mr. HAGERMAN:

Q. That is why we wanted it made up to give the State the benefit of every possible contingency.

3599 The MASTER: My idea in asking for this exhibit, was to show what would have been the total amount of revenue received upon the items, where they would have received a greater revenue than they actually did receive, if they had charged up to the maximum rate allowed by the Act of 1905.

Mr. LADD:

Q. Returning to Exhibit 8 Page 1, headed "amount of intrastate and inter-state carload freight handled at stations on the Missouri Pacific Railway named hereon": Mr. Hagerman in his redirect examination, called your attention to Hermann, and put the case to you of a loaded coal car going into Hermann.

Mr. HAGERMAN: Going into Hermann, or any place. I referred to that with the idea that coal was not produced there.

Mr. LADD:

Q. I am simply following what Mr. Hagerman said:
It was suggested, and it was a fact you said, that there was no coal going out of Hermann: Do you remember that?
A. Yes, sir.
Q. I will ask you whether in making up these statements you investigated as to the character of the freight, the contnets of the cars which went in or which went out, in any case.
A. No, sir.
Q. The character of the freight had nothing to do with it?
A. No, sir. We presumed that——
Q. The character of the freight which went into or out of
3600 stations was not considered at all in the preparation of this statement, was it?
A. No, sir.

Redirect examination.

By Mr. HAGERMAN:

Q. That was a mere illustration of a case where loaded cars go in and empty cars come out?
A. I assume the number of cars received would be far greater than we show in this exhibit, because you cannot always use the same cars that come in for the purpose of loading going out.
Q. As a matter of fact, there would not be any cars at these way stations unless they were sent in there?
A. No, sir, either loaded or empty.
Q. That is, way stations of that character is not the place where you store your cars?
A. No, sir.

Mr. LADD: Your Honor, I would rather the witness would testify instead of Mr. Hagerman.

Mr. HAGERMAN:

Q. What is the fact, about getting a supply of cars on hand or stored at way stations: Or do they go in loaded or empty, according to the demands of business at the particular stations? That is the point I want to get at.
A. If there is a load to go out and a loaded car went in and that car could be used for reloading, that car will be used. If not,
3601 it will have to be hauled away, unless there is an immediate prospect of reloading it.
Q. Do you keep on hand at those way stations empty cars, stored there?
A. No, sir.

3602 F. P. JOHNSON, re-called for examination in chief, testified as follows:

Direct examination.

By Mr. FRANK HAGERMAN:

Q. Something was said yesterday, in question to you, about your being a clerk: What is the nature of your position?

A. I am one of the chief clerks in the General Auditor's office, in charge of a department.

Q. What is your department of which you have charge?

A. The name of the department is the Accounting Division Department.

Q. And who is it who is directly over you?

A. Mr. Schuyler, the General Auditor.

Q. And if Mr. Schuyler, the General Auditor of the Missouri Pacific Railway Company, would want some information compiled, to whom in the natural order of business would the duty fall upon?

A. So far as expenses are concerned, he would come to our department.

Q. And when he got to your department who, in the ordinary course of business, is the man who would take charge of it?

A. To me they would come.

Q. How many men have you under you in your department?

A. We have eighteen men in our regular department
3603 and we hire extra men as we need them.

Q. And those eighteen men and the extra men are under your direction?

A. Yes, sir.

Q. Something was said yesterday about the expense of the Kansas City terminals, being all charged to Missouri: What is your idea about that, and what theory, in your judgment, ought to be charged to the State of Kansas: I wish you would give your views about it, as the Accounting Officer, and the reasons for them.

A. My opinion is that the expense of the Kansas City terminals has been properly handled in this statement.

Q. By charging it all to Missouri?

A. Yes, sir.

Q. Yes, sir, by charging it all to Missouri, and no part of the expense ought to be assigned to the State of Kansas.

Q. Explain to the Master why you think that.

A. I believe that every pound of freight that goes into Kansas City or goes out of Kansas City, incurs an expense within the State of Missouri. Our station force is a Missouri force, or a Missouri expense. Now it is just possible that in switching cars, some of our switching crews may go over into the State of Kansas. But the proportion that would be assigned to the State for that reason would be insignificant, too small to be figured. That is based upon an opinion I have.

3604 Q. That is what I wanted to get, your idea about it. That is, the terminal stations are really in Missouri?

A. Yes, sir.

Q. And then the switching or the switch tracks lead off to industries in Kansas: How about those tracks that lead to industries? Are they in all cases Missouri Pacific tracks?

A. Not in all cases.

Q. Is there a large portion of your business where switching has to be done over tracks of other companies, or tracks of private industries, to finally reach the place where the car is to be unloaded?

A. That is switching done by other companies, you mean?

Q. Yes.

A. I should say there was some of that, but how much I cannot tell.

Q. This information you have about it is from your examination of the way-bills and books?

A. What is that?

Q. About charging it all to Kansas City.

A. It is from the expense itself, and not from the way-bills.

Colonel CLARDY:

Q. How is the switching revenue derived from that yard, credited?

A. My understanding is that the switching revenue is credited entirely to the State of Missouri.

Mr. HAGERMAN:

Q. I believe you did say that you actually charged up to Kansas the movement over in Kansas, of so much of the business;
3605 that is credited that passed through that State?

A. You are referring to train expense?

Q. Yes.

A. Train expense does not enter into the Kansas City terminals at all.

Recross-examination.

By Mr. S. B. LADD:

Q. I understood you to say in answer to the last question of Mr. Hagerman's, that you understood that the switching earnings of those terminals was credited to Missouri: Have you had anything to do with the earnings in the preparation of this statement?

A. No, sir.

Q. Do you know then that they are credited to Missouri?

A. I said I understood they were.

Q. You don't know anything about them?

A. No, sir, only what I have been told.

Mr. HAGERMAN: I probably should have asked Mr. Roth that question. That is my mistake.

Mr. LADD:

Q. Mr. Johnson, you furnished us yesterday some sheets showing compilations which were prepared in the Missouri Pacific Railway Company's office in the usual course of business, as I understand: Am I correct about that?

A. Yes, sir.

Q. One of them is designated as Form 1940, consisting of two sheets, and is headed "Analysis of statement of Superintend-
3606 ent's operation for the months of June, 1906, and 1905, and for the period from July 1, 1905, to June 30, 1906, compared with the same period of previous years"; I will ask you if these are the sheets (indicating).

A. Yes, sir.

Q. They have been printed by your company?

A. That is a monthly statement, that has been printed by our company, up to and including July, 1906. From that date we propose to blue-print them, instead of printing them.

Mr. HAGERMAN:

Q. There is no change in the method of making the statements?

A. No, sir.

Mr. LADD:

Q. There is another sheet which you furnished, called Form 1941, composed of 7 sheets: There were prepared in your office and used in the course of business?

A. Yes, sir.

Q. These were not prepared for the purposes of this case?

A. Oh, no.

Mr. HAGERMAN:

Q. Are those the same papers we had here yesterday, and your experts took a look over last evening?

Mr. LADD: Yes.

This purports to be for the Missouri Pacific System: What is included in the Missouri Pacific System, as those words are used there?

3607 A. All of the companies operated by the Missouri Pacific Railway Company: The St. Louis, Iron Mountain & Southern and independent lines.

Q. I wish you would name them. What is the Missouri Pacific Railway as distinguished from the Missouri Pacific System?

A. You mean its mileage or its corporate name?

Q. Just say in a general way where it runs, the Missouri Pacific Railway.

A. The Missouri Pacific Railway runs from St. Louis, Missouri, to Omaha, Nebraska; from Pleasant Hill, Missouri, to Joplin, Missouri; and from the Kansas City Southwest Junction, Missouri, to Coffeyville, Kansas.

Q. Does it take in the line to Pueblo?

A. It has branches that run to Pueblo, south to Wichita, Kiowa and out to Larned, Kansas.

Q. Are all of the railroads in the State of Kansas, operated by the Missouri Pacific Railway, a part of what you call the Missouri Pacific Railway Ssystem?

A. Did I understand you to say, all the lines in Kansas?

Q. Yes.

A. No, sir.
Q. Substantially all?
A. All but about 391 miles.
Q. Why is that?
A. The Central Branch Railway line, which runs from
3608 Atchison west to Lenora.
Q. All but what you call the Central Branch?
A. Yes, sir, all but about three miles in Kansas of the St. Louis, Iron Mountain & Southern.
Q. And all of the Missouri Pacific in Colorado you call a part of the Missouri Pacific Railway?
A. Yes, sir.

Mr. HAGERMAN:

Q. Do you include the Wyandot Southern?
A. That is Missouri Pacific.

Mr. LADD:

Q. What in addition to these make up what you call the Missouri Pacific Railway Ssytem; there is the St. Louis, Iron Mountain & Southern: That is one?
A. Yes, sir.
Q. And the Central Branch in Kansas, running west from Atchison?
A. Yes, sir.
Q. Is there anything else?
A. You have there a statement ending June 30, 1906?
Q. Yes.
A. No, sir, that is all.

Mr. HAGERMAN:

Q. The System consists of the Missouri Pacific, as you have defined it, and the Iron Mountain, and the Central Branch?
A. Yes, sir.

Mr. LADD:

Q. And that covers the System?
3609 A. Yes, sir, the System and all its independent branches.
Q. You have not any sheets of this kind which cover particularly and exclusively the lines of the Missouri Pacific Railway Company as distinguished from the System, have you?
A. No, sir.
Q. You have not any sheets showing the information which these sheets contain, for that part of the Missouri Pacific Railway proper, which is situated in Missouri, either, have you?
A. No, sir.

Questions by Mr. JOHN KENNISH:

Q. I understood you to say that you thought all the expenses of the Kansas City terminals were properly charged to the State of Missouri?
A. Yes, sir.

Q. The chutes for the unloading and loading of livestock I believe you say are across the State line, in the State of Kansas.

A. No, sir, I did not say so. I do not know where they are located. I have never been in our quarters in Kansas City.

Q. A good many of the industries that ship over your line are located across the State line in the State of Kansas?

A. I believe they are.

Q. The packing houses, and such as that?

A. Yes, sir, I believe so.

3610 Q. Suppose stock was shipped in on the Central Branch, and on to the Kansas City livestock market: That shipment would not touch the State of Missouri, would it?

A. The actual car of livestock might not touch the State of Missouri. I do not know——

Q. Suppose stock was loaded at the Kansas City stock-yards, and feeders shipped out into the State of Kansas: Or suppose any product of the packing house industry, or any other industry located in the State of Kansas, were loaded on your cars and shipped west: In either of those cases the shipment would not touch the State of Missouri? That is, the shipment shipped west, or the shipment from the west east to the stockyards, or to any of the industries that are located in the State of Kansas: In those shipments, they would not touch the State of Missouri, going either way, would they?

A. A cattle car loaded with the shipment might not touch the State of Missouri.

Q. Would the car, or any part of the shipment, touch the State of Missouri?

A. I say, the actual car loaded with these shipments might not touch the State of Missouri, but the expense——

Q. The expense would touch the State of Missouri?

A. The expense of conducting that business would be connected with our Kansas City terminals. Our agent who has any business with that shipment, is located at Kansas City, Missouri.

Q. That is what you put in under General Expenses?

3611 A. No, sir. The agent is part of the "conducting transportation" expense.

Q. But all the terminal expenses in the shipment I have referred to, such as the switching and loading and unloading, and all that, would be in the State of Kansas, and part of it would be in the State of Missouri?

A. A good deal of that loading would not be performed by our company at all, as I understand it.

Q. There would be a good deal that would be performed by your company?

A. There may be some.

Q. Suppose a train of livestock would come in over the Central Branch,—and that is quite a livestock country which the Central Branch traverses?

A. Yes, sir.

Q. And a good deal of business of that character is done on that part of your System, isn't it?

A. Yes, sir.

Q. Suppose a train-load of stock comes in over that line and is unloaded at the Kansas City stockyards: Would any part of that shipment touch the State of Missouri?

A. It might not. I cannot answer that positively.

Q. Would Missouri get any credit for any earnings of that shipment?

A. No, sir, I don't believe she would.

Q. And yet you tell the Master you think Missouri ought to be charged up with all the terminal expenses of that
3612 shipment at the Kansas City terminals?

A. I do, because I believe that any expense on shipments of that kind incurred in the Kansas City terminals, would be a very small proportion of what we have charged to the State.

Q. You think all that expense should be charged to Missouri, that is all the terminal expense, in that kind of a shipment?

A. I believe that is a fair proportion of the expenses.

Q. Suppose a shipment originates in Kansas City, Missouri, and goes west on your line: Would the Missouri part of the road get any part of the earnings of that shipment?

A. That I cannot say.

Q. But it would be charged with all the terminal expenses of that shipment?

A. In Kansas City, Missouri, yes.

Q. And you think in that case, whether Missouri was getting any part of the earnings or not, it is proper to charge all the terminal expenses to Missouri?

A. I do, if the expense is incurred in Missouri.

Now as to the division of earnings, I cannot answer that question. I do not know how they apportion earnings on a shipment of that kind.

Q. You say you think if the expense was incurred in Missouri that would be a reason why it ought to be charged to Missouri: In the cases I have mentioned just before this last question, I was taking shipments in which the expenses were all incurred, except
3613 you say the expense of the agent, in the State of Kansas, and no part of the earnings credited to the State of Missouri; and yet you think all the terminal expenses in all those cases should be charged to the State of Missouri, whether she gets any of the earnings or not.

A. You are citing a case from the Central Branch to Kansas City, Kansas, or from Kansas City, Kansas, to points west?

Q. Yes.

A. Upon which the amounts charged to the Kansas City terminals is a very small proportion of the amount we show as the total expense of that division.

Mr. HAGERMAN: I think the case you put of a shipment of live-stock always has to come into Missouri before getting into the stockyards. We will have witnesses to show that.

Mr. KENNISH:

Q. I do not care whether you take the case of the stockyards or not. Suppose a train is loaded at a packing house, which is across the State line in the State of Kansas, and it goes west: In that case the shipment would not need to touch Missouri at any point, would it?

A. I cannot say.

Q. And yet you think all the expenses incurred at the terminals, all terminal expenses in that case should be charged to Missouri?

A. I do.

3614 Redirect examination.

By Colonel M. L. CLARDY:

Q. Why do you?

A. Because it would be practically impossible to determine what proportion of the expenses you could assign to the State of Kansas, and reduce it to percentages; I doubt if you would arrive at anything after working it out.

The MASTER:

Q. Even if it could be ascertained, it would be comparatively insignificant?

A. Yes, sir, that is my opinion. Bearing in mind that the station force itself, and the operating of that yard, is work done in Missouri, on the Missouri side of the State line.

Mr. CLARDY:

Q. In other words, the expense of the terminal itself, is Missouri expense?

A. The expense of the station force itself is Missouri.

Mr. HAGERMAN:

Q. Does any of the Kansas City Southwestern, or the Central Branch, get into this?

A. The Central Branch does not come within 90 miles of the Kansas City terminals.

Q. None of that comes in?

A. No, sir.

Q. How about the Kansas City Northwestern?

A. That is treated as a separate division, and is a part of what we call the Omaha Division.

Q. Do the terminals of the Kansas City Northwestern Company go into this Kansas City terminal account?

A. No, sir, they maintain their own force and it is
3615 charged to what we call the Kansas City Northwestern Division.

Recross-examination.

By Mr. LADD:

Q. You have terminals at Omaha?
A. Yes, sir.
Q. And they are extensive?
A. I should say so. They are quite good sized terminals.
Q. And you have terminals at Pueblo, Colorado?
A. Yes, sir.
Q. Extensive terminals?
A. Yes, sir.
Q. Are there any extensive terminals on the Iron Mountain?
A. Yes, sir, quite a number.
Q. What are they—I mean what you call large terminals?
A. We have very extensive terminals at Texarkana and at Little Rock, at Coffeyville and St. Louis.
Q. You know where Heim's Brewery is located in Kansas City, in a general way?
A. No, sir.
Q. Suppose your company ships a carload of agricultural implements, loaded at Kansas City in Missouri: There are a large number of agricultural implement houses at Kansas City, aren't there?
A. Yes, sir.
Q. Someone has testified here that it is the largest distributing center in the world: Those are in Missouri, aren't they?
3616 A. I won't say that.
Q. Suppose they are. Suppose a carload of agricultural implements shipped to Kansas City, destined for Beatrice, Nebraska, that goes up on your Kansas City Northwestern, doesn't it?
A. Yes, sir.
Q. That is a part of the Missouri Pacific Railway?
A. Yes, sir.
Q. Does Missouri get any credit for any part of those earnings?
A. I cannot say.
Q. You do not know?
A. No, sir.

3617 H. ROTH, recalled, testified as follows:

Direct examination.

By Mr. FRANK HAGERMAN:

Q. In these Kansas City terminals who gets the earnings from the terminals, Missouri or Kansas?
A. Any switching earnings or demurrage earnings——
Q. Terminal earnings, I mean.
A. —are credited entirely to Missouri.
Q. So while the expense is charged in Missouri the earnings for that terminal work is credited to Missouri?
A. Yes, sir.

Recross-examination.

By Mr. LADD:

Q. How much does it amount to that is credited to Missouri, a year?

A. I have no idea of the actual amount.

Q. Will you please find out?

A. I can ascertain it.

Q. I wish you would.

Is Missouri credited with any part of the earnings from business coming from the west and terminating at Kansas City?

A. Pardon me, what do you mean by the "west"?

Q. I will say Beatrice.

A. You mean the northwest?

Q. Yes, the northwest.

A. No, sir.

3618 Q. Is Missouri credited with any part of the earnings from the business coming down what used to be the Kansas City and Northwestern, from that part of Nebraska where Beatrice is, coming to Kansas City?

A. No, sir.

Q. Is Missouri credited with any part of the earnings from business in that direction, originating at Kansas City?

A. No, sir.

Q. The Central Branch starts at Atchison, doesn't it?

A. Yes, sir.

Q. And runs west?

A. Yes, sir.

Q. That is entirely in the State of Kansas, isn't it?

A. Yes, sir, entirely.

Q. What is the western terminus of that road?

A. Lenora.

Q. How far west of Atchison is Lenora?

A. 293 miles.

Q. Freight shipped from Lenora to Kansas City comes to Atchison, does it?

A. Yes, sir.

Q. And then down on the main line of the Missouri Pacific to Kansas City?

A. Yes, sir.

Q. On the west side of the Missouri River, doesn't it?

A. Yes, sir.

3619 Q. Is any part of the revenue from freight originating on the Central Branch Road, destined for Kansas City, credited to Missouri earnings?

A. No, sir.

Q. Is any part of the revenue from freight from Kansas City, Missouri, to points on the Central Branch Road credited to Missouri?

A. No, sir.

Q. You have a line from Kansas City, Missouri, running up the west side of the river and then leaving the river for awhile and run-

ning to Omaha and Crete, Nebraska, and Lincoln, Nebraska, haven't you?

A. Yes, sir.

Q. Is any part of the revenue of the traffic between Kansas City, Missouri, and the points on that line credited to Missouri earnings?

A. No, sir.

3620 W. T. FISHER, a witness of lawful age, being duly produced, sworn and examined on the part of the Complainant, testified as follows:

Direct examination.

By Mr. FRANK HAGERMAN:

Q. Mr. Fisher, what railroad experience in numbers of years have you had, the chara-ter and kind. Or, first, how long have you been in the railroad business?

A. Since 1885.

Q. Where did you start and with what railroad have you been connected?

A. I started on the Philadelphia and Reading Railroad in Pennsylvania in 1885, I do not remember just the month. I was agent, express bill-clerk and freight bill-clerk until 1886. In November of 1886 I was employed by the Missouri Pacific Railway, and have been with them in various capacities.

Q. Since 1886 have you been connected continuously with the Missouri Pacific?

A. Yes, sir.

Q. Covering what territory of the Missouri Pacific System have all those years been spent?

A. I started as telegraph operator in Missouri, just a few days in Missouri and then I was transferred into Kansas as telegraph operator, assistant agent and telegraph operator, in Kansas; agent at a number of competitive stations in Kansas; then I was transferred to Fort Smith, Arkansas, as cashier and chief clerk in the local freight
3621 office. From there I went to Memphis as cashier in the local freight office. In 1891 I was made traveling accountant for the Missouri Pacific Railway under Mr. C. G. Warner, General Auditor at that time. I was traveling accountant for two years, when I was made Chief Traveling Accountant. I held that position until 1904.

Q. Then you were Chief Traveling Accountant from 1893 until 1904?

A. Yes, sir. During that time Mr. S. B. Schuyler was made Assistant General Auditor and General Auditor, and is still holding the latter position. In 1904 I was appointed Supervisor of weighing and inspection for the Missouri Pacific and Iron Mountain Railroads, and still hold that position.

Q. In a general way give the duties you had at the head of the Traveling Accounting Department? Where you had to go and what you had to see to and what you did.

A. As Traveling Accountant, my duties were to check the accounts

of the various agents, freight and passenger, and numerous investigations that come up incident to the handling of the accounts at stations.

Q. Did that include checking up at division headquarters, for instance and dealing with the question of expenses, at divisional headquarters, and so on?

A. During the time I was Traveling Accountant I had charge of distinct territories. After I was Chief Traveling Accountant I had charge of and checked the terminal stations myself, with the assistance of such traveling accountants as I called in to help me.

3622 Q. So in addition to just passing upon the accounts of different people you had in those duties to look into the question of the method of doing business and the charges and countercharges as would be made in the local business?

A. Yes, sir, so far as the local stations were concerned.

Q. And terminal divisions?

A. Yes, sir.

Q. After you got your present position what were your duties?

A. To supervise the weighing of carload and less than carload freight, and the inspection of carload and less than carload freight.

Q. How extensive are those duties and what does it include?

A. That principally includes the freight business only and it deals entirely with the movement of carload and less than carload freight from freight houses and stations, and necessitates going into the yards at various points to see that the freight is properly weighed.

Q. As to your observations in dealing with carload and less than carload freight to what department did you make report as to any discoveries that you might make, or any changes that would be necessary in the methods of doing business?

A. I have four traveling men that report direct to me. And in addition to that I have charge of a department in the Account-

3623 ing Department. These reports all come, while headed to the General Auditor, to me direct.

Q. In the Accounting Department how many men have you under you?

A. Nine. That is six men, a stenographer and two office boys.

Q. That is in addition to the traveling men you have?

A. Yes, sir, in addition to the four men on the road.

Q. Have you been giving any particular attention to this lawsuit?

A. I have.

Q. In a general way, what have you done in reference to it, as to following it?

A. I have been trying for a number of months to acquaint myself with the conditions, and the cost of handling State and inter-state freight.

Q. And have you followed the testimony taken in this and the other cases?

A. The latter part of the Burlington case, all of the Wabash and all of the Missouri Pacific, so far.

Q. And you have been looking into that question largely in the interest of the company, to ascertain what the facts are about it?

A. Yes, sir.

Q. Have you had anything to do in the way of supervising and going over these accounts that are represented by Exhibit 5a, submitted by Mr. Roth and Mr. Johnson?

—. ——.

3624 Q. You know what they are, in a general way?

A. I know what they are but I do not know how they are compiled or on what basis.

Q. You heard the testimony here in reference to the Kansas City terminals?

A. Yes, sir.

Q. Where something has been said about the expense of those terminals being charged to Missouri, and the terminal earnings being credited to Missouri: I wish you would explain in a general way what the situation is there as to shipments from Kansas City, Missouri, and what in your judgment ought to be, considering the fact that all the terminal earnings go to that plant, what ought to be the division of expenses, if any, as to those terminals, as between Kansas and Missouri. Perhaps you had better describe in a general way how the terminals are located, if you are familiar with them.

A. The Kansas City terminals, as I consider them, commence from beyond Kansas City Southwest Junction on the east, Leeds on the south, Kansas City, Kansas, and Ramapo on the west. That takes in a large country; that is, for terminals.

Q. That is, in freight miles, and where there is a considerable number of miles?

A. Yes, sir, that is the territory practically of the Kansas City terminals.

Q. Start with that territory and describe the terminals as they exist, in a general way.

A. The "East Bottoms Yards", as we call them, are large

3625 terminals, and all the trains for the south and east are made up in the East Bottoms terminals, about five or six miles from the Kansas State line, in the State line yards.

The MASTER:

Q. In what State are the East Bottoms Yards?

A. In Missouri.

Mr. HAGERMAN:

Q. About how extensive would you say those yards are, in passing, in a general way?

A. I think they cover something like—I don't know exactly, but it looks to me like 50 or more acres.

Q. Covered with tracks?

A. Altogether or nearly so.

Q. That is all in Missouri?

A. Yes, sir, that is what is called the East Bottoms Yards.

Q. What is that used for?

A. That is used for the making up, and the breaking up of trains, and re-classifying them for the different territories to which they are supposed to run.

Now the Kansas City Grand Avenue station lies between the East Bottoms terminals and the Kansas City State line yards.

Q. Before we get to the Kansas City Grand Avenue Station, in leaving these East Bottoms Yards and getting down there I presume there is more than one track leading up to it?

A. Oh, yes, probably 50 or 75 or more tracks there.

Q. Between the two yards you are describing now?

3626 A. In the East Bottoms Yards.

Q. As you leave that trackage and terminals of the East Bottoms Yards to approach the Grand Avenue Station, about how many tracks are there between the two points?

A. There is a double track and I think part of the way there is a third track.

Q. And as to tracks leading off to private industries, are there a great many there?

A. Yes, sir, leading off to these industries.

Q. That is a very important part of Kansas City, from a business point of view, with its industrial tracks?

A. Yes, sir, there are quite a number of industries located there and quite a lot of business originates there.

Q. Take two big industries in Kansas City, the gas works and the electric light plant, they are both in that territory?

A. Yes, sir. We have quite a number of others there. We have a big elevator and have a sewer pipe manufacturing plant there.

Q. That is one of the largest in the west?

A. Yes, sir.

Q. How does the elevator compare in size with any of the big elevators in the west?

A. It is one of the largest in Kansas City.

Q. And Kansas City, next to Chicago, is probably the greatest grain market in the world?

A. Yes, sir, Chicago and Buffalo and the Canadian grain markets.

3627 Q. Could you mention any other real large industries that lie in there, before you get to the Grand Avenue Station?

A. There is a brewery there that is quite a big industry.

Q. Whose brewery is that?

A. Heims'.

Q. Is that a small or a large brewery?

A. It is considered quite large. It ships quite a lot of carload freight and receives quite a lot of carload freight.

Q. From the standpoint of breweries, do you know of any concern west of St. Louis—I will exclude St. Louis—that is a larger institution than Heims' Brewery, of that class?

A. No, sir. There is one in Omaha but I don't think it is quite as large as Heims'.

Q. What I mean is, outside of St. Louis and Milwaukee it is one of the largest breweries in the country?

A. Yes, sir.

Q. What other large industry is there?

A. There is the gas plant. They consume quite a lot of coal and other material.

Q. That is the plant that furnishes Kansas City and surrounding country with light?

A. Yes, sir. And we have quite a number of coal dealers located on the line in that territory. Bolen & Darnell Coal Company is quite a large shipper of freight.

Q. That is one of the largest coal institutions in the west?

3628 A. The largest west of St. Louis, outside of Omaha.

Q. How does this compare with the Central Coal and Coke Company? That is a large one there at Kansas City.

A. The Central Coal and Coke Company are wholesale dealers. Bolen & Darnell Coal Company are retail dealers.

Q. As retail coal dealers, with the possible exception of Omaha, they are about as large as any of them?

A. Yes, sir.

Q. Now let us get along and see what else there is there.

A. We have a paper mill. The Kansas City Star Paper Mill is located in that territory.

Q. Is that a big or a little institution?

A. It is quite an institution.

Q. What is that glass factory I forget the name of it Obear?

A. Oh, yes, Obear and Nestor. I don't know just what their product is but from the appearance of their place I would imagine they would do quite a good business.

Q. You spoke of the Electric Plant. That is the plant that supplies Kansas City with light and power for the street railway system?

A. I imagine so. That is near Grand Avenue.

Q. Now give us some idea of the Grand Avenue Yards.

A. The Grand Avenue Yards are not as extensive in any part as the East Bottoms Yards. They were primarily intended to supply Kansas City merchants with less than carload freight to avoid

3629 the hills.

The MASTER:

Q. They are east of the Union Station at Kansas City?

A. Yes, sir.

Q. They would appear at Grand Avenue and the river front?

A. I think that is the correct location. They were located there to take care of the less than carload freight.

Mr. HAGERMAN:

Q. Are they extensive or otherwise, or what have you to say about that?

A. They are quite extensive. There is quite a good deal of freight handled there. All the vegetables, and the greater portion of the fruit, outside of banana shipments, handled at Kansas City are handled at the Grand Avenue Station.

Q. I suppose that is because the markets and produce houses are near there?

A. Yes, sir.

Q. You pass on from there and what is next east of the terminals?

A. The next is the Kansas City State Line Yards.

Q. Before you get there you get to the Kansas City Union Depot for passengers?

A. Yes, sir, but our freight trains run north of the Union Depot Passenger Yard.

Q. I am getting the location so His Honor can get it in mind.

3630 The MASTER:

Q. And they passed between the station and the Burlington bridge?

A. We passed under the Burlington bridge.

Q. Between the Union Station and the river, at the end of the bridge?

A. Yes, sir, and our tracks run north, or practically north, through part of the Wabash Yards that is located right near the Union Depot, in getting into our State Line Yards.

Mr. HAGERMAN:

Q. As you go down to get through the State Line Yards, what sort of a place in the city do you go through, as to industries or wholesale houses,—whether there are industrial tracks or team tracks or switching tracks there?

A. Between Grand Avenue and the State Line Yards there are quite a number of industries located on the tracks of various railroad companies.

Q. There is a space as you come from the Grand Avenue Yards, getting around toward Union Depot there, I think they call it the goose neck, where there is just barely room enough for the tracks to get around the river front.

A. There is no room unless they build into the river.

Q. About how long a space is that?

A. About a half or ¾ of a mile.

The MASTER:

Q. About what is the distance from the point where you pass under the Burlington bridge approach, to the State line, on your road?

A. I should say it is almost a mile.

3631 Mr. HAGERMAN:

Q. Now you get down to your State Line Yards, and what is the situation when you get there?

A. The Kansas State Line divides our Kansas State Line Yards west of Kansas City Station.

Q. Until you get down to the State Line Station, you are all in Missouri? The Grand Avenue Yards are in Missouri?

A. Yes, sir.

Q. And all the other territory is in Missouri?

A. Yes, sir.

Q. The State line is an imaginary line running through the center of a street separating Kansas City, Kansas from Kansas City, Missouri?

A. Yes, sir, and it runs in a diagonal direction through what we call the "State Line Yards".

Q. And when you get out to your yards there is no open street there at all?

A. No, sir.

Q. But starting practically—the river it runs down State Line Street until it strikes the railroad yards there?

A. Yes, sir, and through it.

The usual hour having arrived recess was here taken until two o'clock p. m.

3632 After recess on Friday, February 1, 1907, the following proceedings were had:

H. ROTH, recalled, testified as follows:

Direct examination.

By Mr. HAGERMAN:

Q. Mr. Roth, you asked me if you could correct one statement you made to Mr. Ladd, in regard to the Grand Avenue Station: what was that?

A. I omitted to state that freight moving in and out of Grand Avenue, to points west and northwest, we did allow a certain proportion of the earnings to the State of Missouri.

Q. But not when it went from the State line?

A. No, sir, not when it went from the State line warehouse.

Cross-examination.

By Mr. S. B. LADD:

Q. How far is it from the Grand Avenue Station to the State line?

A. About a mile.

Q. How much did you allow?

A. On the track mileage basis.

Q. You know Mr. Hamilton, don't you, connected with Haskins & Sells?

A. Yes, sir.

Q. Didn't you inform Mr. Hamilton that you did not allow anything?

3633 A. No, sir. I do not think Mr. Hamilton ever asked me a question about that matter; not to my recollection. Or, if he did I could not possibly have told him that because I knew better and there would be no reason for my making such a statement.

Q. Have you learned this fact that you are stating now, since you were here this morning?

A. No, sir, I was aware of that this morning. But when you re-

ferred to Kansas City I had the Kansas City freight house in mind in particular; because we treat Kansas City Grand Avenue as a separate station from Kansas City proper.

Q. There is a small proportion of the freight that is shipped from Kansas City west, south, or north, that is taken to Grand Avenue Station, isn't it?

A. As compared to Kansas City, yes.

Q. It is an exceedingly small portion, isn't it?

A. I should say not, not an exceedingly small portion.

Q. All the freight from Kansas City, those large wholesale grocery and implement and other houses in the West Bottoms, does not go to the Grand Avenue Station?

A. That would not, no, sir.

Q. Doesn't a very large proportion of the freight shipped from the hill part of Kansas City go down to the bottoms in Kansas to be delivered to your company?

A. No, sir.

Q. You don't know anything about it?

A. I am not familiar with that.

3634 Q. You cannot say, then, what proportion of the outgoing freight from Kansas City is loaded at Grand Avenue?

A. No, sir, not what proportion.

Q. You do not know anything about how it is?

A. No, sir.

Q. Would you be willing to say it is a small portion compared with the total output?

A. I have already said it is a comparatively small proportion.

Q. Most of the large shippers of freight in Kansas City, their houses are located in the West Bottoms, aren't they, most of them?

A. That I do not know.

Q. Have you ever been there?

A. Yes, sir, I have been there.

Q. And you do not know that?

A. I do not know that to be a fact.

Q. Don't you know, Mr. Roth, that the heavy tonnage going out of Kansas City comes from those houses in West Kansas, where they have track and switch facilities?

A. I should presume so. I believe it does, but I do not know it as a fact.

Q. Do you know whether there is a wholesale agricultural implement house in Kansas City that is not on the West Bottoms—one?

A. No, sir, I do not know whether there is or is not.

Q. You paid attention to the matter of earnings, I understand, in getting up this statement?

3635 A. Yes, sir.

Q. Can you tell how much was credited to the Missouri earnings in this statement on account of freight delivered to you at the Grand Avenue Station?

A. Could I tell?

Q. Yes.

A. I could ascertain.

Q. Would it take you long to do it?
A. It would take some time.
Q. You had work sheets, I suppose?
A. Yes, sir, they would give me the information.
Q. Could you refer to these work sheets?
A. I could.
Q. Would that take you long?
A. It would take a day or two.
Q. Do you mean it would take all your time for a day or two?
A. Oh, no. But I cannot, necessarily, devote all my time to that; but it will not take more than a day or two to get the information, if you require it.
Q. Will you do that, if you can? I do not want to make you too much trouble. Of course I would not ask you to go to all the waybills.
A. Oh, no, sir, I could not do that.
Q. Will you do that?
A. Yes, sir.

3636 Redirect examination.

By Mr. HAGERMAN:

Q. This suggestion to correct your testimony, was your own, because you had not carried in mind the breadth of Mr. Ladd's question?
A. Yes, sir.
Q. And so you asked me to be allowed to correct that?
A. Yes, sir.
Q. And that is the reason I called you back?
A. Yes, sir.

Recross-examination.

By Mr. LADD:

Q. Have you a map of your system before you?
A. I have a map here.
Q. Over what part of your line does freight for the west, excluding that over the Central Branch of your line, up into Omaha and other parts of Nebraska, go out of Kansas City?
A. It goes over the Omaha Division.
Q. You do not understand me. I exclude that. Perhaps my question was not clear.
Over what part of your line does all freight shipped over your system from Kansas City west and southwest go out of Kansas City?
A. It goes over the——

Mr. HAGERMAN: Do you mean by that to exclude the Central Branch?

Mr. LADD: I do. I do not call that west.

3637 Mr. HAGERMAN: He is excluding the North line now and the Central Branch.

A. It moves through the terminals down the main line, 27 miles in Missouri, and then it strikes Kansas.

Mr. LADD:

Q. There is only 27 miles in Missouri?
A. Yes, sir, that is it, 27 miles.
Q. Where does it strike Kansas?
A. At Martin City.
Q. And from that point west and southwest, none of it is in Missouri?
A. None of it is in Missouri.
Q. In that is included your Colorado business and all your Southern Kansas business, isn't it?
A. Yes.
Q. It goes that way?
A. Not all of the Southern Kansas business, by any means.

Mr. HAGERMAN: There are other branches that run out in Kansas, too.

Mr. LADD:

Q. You say "not by any means:" Explain that.
A. All stations between Chetopa, Kansas, and Mindon, Missouri, for instance, would move through Nevada up to the Lexington Southern into Kansas City. They would not go around through Martin City. And they would get a very long haul in Missouri.
The same thing applies to stations between Rich Hill and
3638 Fort Scott and stations between Leroy and Monteith Junction.
Q. Well, all the rest of it would go through Martin City?
A. Yes, sir.
Q. And of that there is 27 miles in Missouri, on that line?
A. Yes, sir.
Q. And the apportionment of the revenue in Missouri, as I have understood, is on a mileage basis?
A. Yes, sir.
Q. So that of all the traffic that which you have excepted, all traffic south of the Kansas River, going to points south of the Kansas River, and to Colorado, except those you have just mentioned, Missouri gets only that portion of the revenue which is represented by the 27 miles of mileage from Kansas City to Martin City?
A. Some of those I have just mentioned are a very heavy proportion of that freight.
Q. Just answer my question. With the exceptions you have made, all of that territory south of the Kansas River and all of Colorado, of the revenue derived from the business in to and from that territory, Missouri gets only the proportion which the 27 miles from Kansas City to Martin City represents: Is that right?
A. That is correct.

3639 W. T. FISHER, continued.

Direct examination.

By Mr. FRANK HAGERMAN:

Q. I believe you have gotten as far as designating how the State line cuts the State Line Yards in two. I believe that was the point at which we had arrived when we adjourned. Will you go on with that:

As I understand it, the warehouse or depot is on the Missouri side of the State Line?

A. Yes, sir.

Q. What proportion of the yards is on the other side, the Kansas side?

A. There is the distance from the Kansas State Line in the State Line Yards to the Kaw River bridge.

Q. That is, the Kaw River lies a little west of the State line?

A. Yes, sir.

Q. And is wholly in Kansas.

A. Yes, sir, wholly in Kansas.

Q. The distance between that is what?

A. The distance between the State line in the State Line Yards, and the Kaw River bridge, is about from ¼ to ½ a mile. I cannot give you the exact distance. Then west of the Kaw River bridge we have what we call the Cypress Yards.

Q. What are those?

A. The Cypress Yards are a holding or repairing yard. In that yard we have our round-houses—what is left of them after
3640 the flood. That extends almost to our Kansas City, Kansas, local station.

Q. That is, you have a small local passenger and freight station, or simply a passenger station—which is it?

A. A freight and passenger station.

Q. In Kansas City, Kansas?

A. Yes, sir.

Q. What is the extent of the business done at that particular station?

A. There is very little business done there.

Q. Getting back to the State line, how frequently in the movement of trains or cars there, is the State line crossed?

A. Almost every freight train in and out of the State Line Yards crosses that line. There is no regard paid to the Kansas State line in the State Line Yards, so far as switching, making up or breaking up of trains in that yard is concerned.

Q. What I am getting at is, so far as the yard itself is concerned, the State line is merely an imaginary line that is crossed repeatedly, as often practically as there is a movement of a car?

A. Yes, sir.

Q. The point from which your shipment goes or starts, where do you make up your train to start from to carry the stuff, and where do you break up your train?

A. Trains from the east and south come into the East
3641 Bottoms Yard and are broken up there.

Q. Trains going out to the east or south——

A. Wait a moment. And *and* all cars for Kansas City, Missouri, in that train are taken by switch engines from those East Bottoms into the Kansas State Line Yard and set there for the various industries or other connections with other lines.

Q. Everything that comes in from the east or south comes in a train that is broken up down in the yards in the East Bottoms?

A. Yes, sir.

Q. Such of the stuff as is destined for Kansas City is taken out as a switching proposition, and either delivered to a track where the Missouri Pacific switches it or to a connection over which some other railroad has jurisdiction?

A. Yes, sir.

Q. How do you deal with stuff that is going east or south from Kansas City?

A. If it is from Kansas City, Missouri, proper, loaded at our freight station, or loaded on a side track in our yard, the Kansas City State Line Yard, or received from a connection in our State Line Yard, it is taken by a switch crew into the East Bottoms, and there with other cars made up into trains for the various destinations.

Q. And the billing is what, Kansas City, Missouri, proposition or a Kansas proposition?

A. Kansas City, Missouri.

Q. The stuff that comes from the north, say, or that
3642 goes to the north—and by running up on the Omaha line whether going on the Central Branch or the Nebraska Branch: How do you deal with that?

A. Freight to the east or east and north is handled from and to the East Bottoms Yard by switch engines, if it goes through. If it is for Kansas City, Missouri, local delivery, that is, for an industry located on our tracks or an industry located on a connecting line, it is handled by the switch engines in the State Line Yard.

Q. That is, the State Line Yard is the place of the working up of that train?

A. Yes, sir. That is trains from the north. Then whatever freight happens to be in that train for the east is handled from the State Line Yard to the East Bottoms Yard by switch engines.

Q. When you are making it up, what do you do?

A. To make up that train, it leaves from the State Line Yards, it is made up in a train in the East Bottoms, excepting those cars that are loaded in the State Line Yard. Those are handled by the switch engine right into the train that is made up in the State Line Yard.

Q. Take one case where you have not a switch of your own running in. Take for instance the Armour Company, a big institution, where the only switching privilege is held by the Frisco Road: If they had shipments to make out into Missouri how would it be dealt with?

A. They would place that car on a connection and we would handle it from that connection into our train, just as
3643 I stated a little while ago, by the use of the switch engine.

Q. Whatever company was doing the Armour Company's switching, would move it out to some point of connection of yours?

A. Yes, sir.

Q. And your switch engine would bring it to the place where you were making up the train?

A. Yes, sir.

Q. I suppose there are some industries so located that they can be reached by a connection with their own company?

A. Yes, sir, a number.

Q. How is it dealt with there?

A. An industry located on a switch near our track, to which our switch engine has a right to go over, we would bring that into the State Line Yard and handle it fro- there as I have described to you.

Q. And in that case, the shipping place would be at the station that is on the Missouri side?

A. That is all Kansas City, Missouri, billing.

Q. Something has been said here about the stockyards: Do you remember how the State line strikes the stockyards?

A. I do.

Q. How is that?

A. The stockyards are located in Kansas City, Kansas. All stock from the north, east and south or every direction it comes from, either crosses that line from Missouri to Kansas or Kansas
3644 to Missouri, in delivering that stock to the Kansas City stockyards. It may not cross it to any great extent, but they cross it just the same.

Q. At some place?

A. Yes, sir. That is the regular place in the yard for—that is, the regular place in that Kansas City State Line Yard.

Q. As I understand it, the stock yards themselves straddle the State Line: That is the State line runs right through the pens: Do you know where the State line is, exactly?

A. It does not pass through the pens in any place on the Missouri Pacific Road.

Q. I am speaking generally of the stockyards.

A. It crosses the line somewhere on the Burlington Railroad side, but I do not know just exactly where it is. I have been over it a number of times.

Q. Before we get through we will try to get a plat to show just where the State line crosses. But the point I am getting at is, that these pens are located without reference to the State line. So cattle may go according to fancy in the pens on one side of the line or the other, no matter where they are delivered.

The MASTER:

Q. What is the distance from State Line Yard to the stockyards?

A. Oh, it is a very short distance; it is less than ¼ of a mile.

Mr. HAGERMAN:

Q. I should suppose they joined.

3645 The MASTER:

Q. What is the intervening State?
A. It runs diagonally.
Q. How is it occupied?
A. By railroad tracks.
Q. And to whom do they belong?
A. They belong to the Missouri Pacific and the Union Pacific.

Mr. HAGERMAN:

Q. You are speaking of the intervening quarter of a mile between your yards and stockyards?

A. Yes, sir. The tracks run east and west and the State line runs north and south, as I understand it.

Q. Does any other company besides the Missouri Pacific and the Union Pacific have tracks in that place?

A. The Rock Island has tracks I believe. They use the Union Pacific as joint tracks.

Q. Are those the tracks running into the stockyards?

A. No, sir, they run east and west over the State line. I don't know that I explain myself clearly. The Kansas City stockyards are located between the Kaw River and the State line. I think it is about a quarter of a mile between the Kaw River and the Kansas State Line. That runs north to southwest and the stock when unloaded in the stockyards are driven into a chute which runs under the tracks. These cattle are transported into Missouri yards in that manner.

Q. Under what tracks do you mean, this ¼ of a mile space.

3646 A. Yes, sir, under the railroad tracks.

Q. Between your yards and the stockyards there is this ¼ of a mile space and then you unload into a tunnel?

A. Yes, sir, into a subway you might call it, or an overhead bridge, and they travel backward and forward, over and under the railroad tracks, in that manner into the Missouri yards. When these cattle or hogs are unloaded in Kansas they may go back into the stock pens on the Missouri side. I don't know. That is a question.

Q. That is to say, the pens of the stockyards are on both sides of the State Line?

A. I don't know when they leave our unloading yards. They may go back into Missouri.

Q. I don't know that His Honor has it clearly in his mind, about the intervening space between your yard and the stockyards. That is about a quarter of a mile?

A. No, sir, I say the distance between the Kaw River and the stockyards is about a quarter of a mile.

Q. Between your yard and the stockyards is what distance?

A. I don't know the distance but it is not very far.

Q. That is occupied by the three railroads of which you speak.

A. Yes, sir. You understand that the Union Pacific and the Rock Island do not reach into the same place in the stockyards that our tracks lead into.

Q. These are main lines?

A. Some of them.

3647 Q. When you wish to reach the stockyards you cross by a subway or an overhead bridge to the pens?

A. Yes, sir.

Q. The actual place where that unloading would take place would be across the line in Kansas?

A. Yes, sir. Delivery of that stock is in Kansas. That is, it is unloaded in Kansas and presumably we call it delivered in Kansas, we aways have considered it so. But it is not accepted by the consignee until it gets over into the stockyards proper. We deliver it to the stockyards company. That is just as much a connecting line as any railroad, and always has been so considered. We collect our freight charges from the Kansas City Stockyards Company. And stock going in this subway or overhead bridge to the stockyards proper might be delivered in Missouri or might be delivered in Kansas.

Q. That depends altogether on the pen in which it would be placed?

A. Yes, sir.

Q. And the Kansas City Stockyards Company would be a Missouri company?

A. I don't know about that.

Q. Do you know where its office is, on the Missouri or on the Kansas side of the State line?

A. I am not sure about that. I know they have a line drawn in the Kansas City Stockyards Exchange dividing Missouri from Kansas.

3648 Q. That is to say, the Stock Exchange building is a building in which all the commission men and dealers in livestock have their offices?

A. Yes, sir.

Q. It is a large office building?

A. Yes, sir.

Q. And the State line runs through that building?

A. Yes, sir.

Q. So some of the offices are upon one side and some on the other?

A. That is correct as near as I can remember it.

Q. Now you have dealt with the question of the unloading of stock and you have made that reasonably plain: Now how is it when it is loaded?

A. Just the reverse conditions.

Q. You take it into your cars the same place you took it off?

A. Yes, sir.

Q. And it comes to your cars either through the subway or on the overhead bridge?
A. Yes, sir.

The MASTER:

Q. And all that stock reaches your cars for shipment actually in the State of Kansas.
A. Yes, sir.

Mr. HAGERMAN:

Q. As a switching proposition, to what point? Where do you make up your trains?
A. Right there in the State Line Yard, partly in Missouri
3649 and partly in Kansas.
Q. With the trains constantly moving between the two places?
A. Yes, sir.
Q. Are you familiar with how the expenses of the Kansas City terminals are kept? You heard Mr. Johnson's statement on that?
A. Yes, sir.
Q. How long has that system been in vogue, of charging the terminal expenses to Kansas City, Missouri, or to the Missouri part of it?
A. I have heard a good deal of discussion on that subject and I think it has been going on a great many years in that way.
Q. It is nothing that has been prepared in view of this legislation at all?
A. I don't so understand it.
Q. And the terminal earnings proper for Kansas City, how are they credited?
A. How do you mean, the switching?
Q. Yes, switching and demurrage, or whatever is a proper terminal collection.
A. Credited to Kansas City, Missouri.
Q. And what is the aggregate amount received on that account, in round numbers, do you remember?
A. I think it is about 15 or 20 thousand dollars a month.
3650 Q. Quite a substantial sum of money?
A. I have not seen any account lately but I remember when I was checking the accounts that approximately it would be fifteen thousand dollars.
Q. You heard Mr. Roth's statement about how the shipments to and from Kansas out through the north were dealt with: That is, shipments from the State Line Yards and to the State Line Yards, coming from Kansas and Nebraska were not treated as a Missouri item but as a Kansas situation or a Kansas shipment: How long has that system been in vogue?
A. I don't know about that. I think it has been in vogue a long time but I cannot give you the dates of it.
Q. Would it be feasible to atte-pt to divide that expense with the number of times and the hourly and almost momentary crossing of

the State line, such as you speak of, upon any mileage basis, as between the States? Would that be a feasible or practical way, from a railroad standpoint?

A. I don't know how you could do it.

Q. Why not?

A. You would have to have a man stationed there and watch every car that moves over that line, because they move over it constantly, day and night.

Q. Practically every movement in the yard would cross that line?

A. Every movement in the State Line Yard—well, not every movement. Movements near the freight house might not
3651 move every time over the State line, but there would be so much of it it would not be practicable to do that.

Q. Why shouldn't it be done upon a mileage basis? What reasons have you for that? Give your view about that.

A. Those are not practical ideas at all.

Q. It is not practicable?

A. No, sir.

The MASTER:

Q. How many acres of ground did you say, about, are included in the State Line Yards?

A. I did not say.

Q. Do you know?

A. I could only make a guess. I would say ten to fifteen acres.

Q. Would you be prepared to say what portion of that space lies east and what portion west of the State Line?

A. I would say ¾ in Missouri to ¼ in Kansas.

Q. And what part of the territory is occupied by the depot or freight house?

A. Missouri.

Q. What is the distance from the depot to the State line, about?

A. Less than ¼ of a mile.

Mr. HAGERMAN:

Q. The company seems to have dealt with this matter from the standpoint of a railroad proposition, paying no attention to the State line, but mellowing the situation by concessions to each side of the line—that has been indicated by this testimony. I would like you now to give me your judgment as to what portion of
3652 that expense, if any, should be allot-ed to Kansas City, Kansas, in view of the fact that Missouri is credited with all the revenue, and Kansas gets the benefit of all the shipments to and from the State line station?

A. I do not believe they are entitled to any.

Q. That is to say, taking everything into consideration, it is fair to give Missouri the whole benefit of the situation and have the whole thing treated as a Kansas City situation?

Mr. LADD: You mean to charge all the expense to Missouri?

Mr. HAGERMAN: Yes. Just as it is done.

Q. That is what you mean?

A. Yes, sir, I do.

Q. Do you understand the different classes of interstate freight of which we have talked somewhat in this case? There is the kind which goes through the State and which we call through inter-state business. Then there is the kind that starts in the State and goes out, or starts out of the State and comes in, for the purpose of classification. And then the difference between that and the purely State freight?

A. Yes, sir.

Q. And you are familiar with the general situation as to the Missouri Pacific Road, with these years of experience you have had?

A. Yes, sir.

Q. How much more, in your judgment, does it cost, taking
3653 everything into consideration, to handle the State freight than it does the inter-state?

A. From my knowledge of the handling of State and inter-state freight, from what I know personally, and from the evidence that has been submitted in these various cases, I would say it would cost from two to six times more to do State than to do inter-state business.

Q. And you would say that from your judgment and experience as a railroad man, independent of this testimony?

A. I do.

Q. And you have heard all the testimony offered upon that subject?

A. No, sir, I have not.

Q. Did you hear the Burlington testimony?

A. I heard the testimony in the Burlington case in Missouri, the last week in Kansas City.

Q. Did you not hear the testimony in the Burlington case, given at Chicago?

A. No, sir.

Q. What are some of the reasons you have for saying it costs from two to six times more?

A. The light tonnage handled on local trains as against through trains.

Q. Some confusion may come from the use of the words "local" and "through" trains. At the present time are you using local as distinguished from State, or in the same sense?

3654 A. I am taking into consideration State freight and inter-state freight, that proportion which is carried on local freight trains and inter-state and State freight carried on through trains.

Q. That is what I wanted to get. We have had some confusion in the past in the use of the words: You understand there is State and inter-state freight carried on local trains?

A. State and inter-state freight is carried on local trains and State and inter-state freight is carried on through trains.

Q. Go ahead then.

A. The difference in the wages of crews of local trains as against the wages of train crews on through trains. The smaller class of engines used on local trains as against engines of greater carrying

capacity on through trains. The light loading of cars carrying less than carloads State and inter-state freight as against the heavy loading of carload freight State and inter-state on through trains. The extra terminal expense, all go to make up the difference in the cost between State and inter-state business.

Q. And those are the different elements that you take into consideration?

A. Yes, sir.

Q. And then taking everything into consideration, your knowledge of the general situation upon the Missouri Pacific Road here in Missouri, your estimate is that it costs from two to six times more to do the State than to do the inter-state business?

3655 A. Yes, sir.

Cross-examination.

By Mr. KENNISH:

Q. You gave a number of industries located in Kansas City, Missouri, very near your terminals in Kansas City, Missouri: Are you familiar with the industries on the Kansas line in Kansas City, Kansas?

A. Some of them.

Q. Will you name the leading industries on that side of the line?

A. There are quite a number.

Q. Name some of them.

A. The packing house of Schwarzchild, and the packing house of the Cudahys. There is a soap manufacturer in there. There are quite a number of industries located there. I can not give you all of them.

Q. Nearly all the packing houses are located in Kansas City, Kansas, aren't they?

A. I believe so.

Q. And a number of other industries entirely separate from the packing and livestock industries?

A. There are a number of industries located west of the Kaw River in Kansas.

Q. And between the State line and the Kaw River, aren't there?

3656 A. Not on our tracks.

Q. Take freight going west from those industries in Kansas City, Kansas, west and north, over your line, or coming from the north or west, destined to points in Kansas City, Kansas, would that freight go into Missouri?

A. Yes, sir. It would cross that line. It might not cross it any great distance but it would cross it.

Q. I understood you in answer to Mr. Hagerman to say that all freight, whether coming from the west or east, would go into Missouri at some point.

A. You misunderstood that or I misunderstood Mr. Hagerman. I said all freight from the west would cross the Kansas line in the State Line Yard at Kansas City, Missouri.

Q. All freight coming in from the Central Branch Line and down

from Atchison, where that line intersects with the line from St. Joe to Kansas City, that freight would necessarily go into Missouri, although it would be destined to a point in Kansas City, Kansas, would it?

A. Yes, sir.

Q. Why the necessity of crossing over into Missouri?

A. Just as much a necessity as it is having a yard at the Kansas State Line Yard.

Q. Haven't you direct connection from your lines in the west to the place of unloading livestock, which place is in Kansas City, Kansas?

A. Yes, sir.

Q. Then why would a train loaded with livestock from the
3657 west or north need to go into Missouri and then go back to a point in Kansas where you deliver that train to the Kansas City Stockyards Company?

A. Are you speaking of one car or a train?

Q. A train, say.

A. You must remember that a train takes up some distance. You cannot get a train into a side-track unless you get it by that side-track and then push it back. In getting it by that side-track you push it over into Missouri.

Q. I believe you said a quarter of your State Line Yards were in the State of Kansas?

A. Yes, sir.

Q. What would be the trackage of that portion of the State Line Yards in the State of Kansas?

A. Between what points?

Q. Between State lines and the western point of your State Line Yards. All of your State Line Yards in the State of Kansas?

Mr. HAGERMAN: His estimate before was acreage and now you ask him for trackage?

A. I said approximately ¼ of a mile.

Mr. KENNISH:

Q. But you have a number of tracks in that district?

A. Yes, sir.

Q. But not sufficient trackage to take a car directly from the point of delivery to the Stockyards Company?

A. Well, you must remember—possibly I am not able to
3658 explain it—but a train coming from northern Kansas into the Kansas City State Line Yards, has got to go sufficiently into that yard to enable the switch engine of the train to place it on a track that will lead into the Kansas City Stockyards. Now if that train is of sufficient length to bring it over into Missouri, it comes into Missouri.

Q. You have about ¼ of a mile in Kansas City, Kansas?

A. Yes, sir, but we do not stop right on the line when a train comes into the Kansas State Line Yards. We bring it into that yard at the most convenient point for handling it. We are not paying any at-

tention in operating that yard to any State line. We never have. We cannot.

Q. Then a train would not necessarily have to go into Kansas City, Missouri, unless it was too long to be accommodated in the portion of your yards across the State line, would it?

A. All freight is handled, as I told you a minute ago, for the convenience of the yard; and if that train is allowed to go clear beyond the Kansas Line and into Missouri, we take it there regardless of any State line. They do not pay any attention to State lines in the Kansas City State Line Yards, in operating that yard.

Mr. HAGERMAN: I think the question is objectionable, upon the theory that it is not a question of how it could be done. The question is, how is it handled in practical railroad operations. He asks the question upon the theory that it might be possible to bring
3659 a train in and unload it in Kansas.

The MASTER: That is all right, but it is all right for the purpose of cross-examination.

Mr. KENNISH: I understood the witness to say all freight coming in from the west had to go into Missouri in order to reach the stockyards at Kansas City, Kansas.

Mr. HAGERMAN: He said that.

Mr. KENNISH: It would not necessarily have to go into Missouri unless the train was so long it could not be accommodated on the tracks in Kansas.

A. I suppose we could stop that train in Kansas all right, but that is not the way the yard is operated.

Mr. KENNISH:

Q. Take a train of feeders loaded at Kansas City Stockyards, going west or north on your line: Would that train go into Missouri before going out of the terminals?

A. 99 out of 100 it would.

Q. Why would it need to go into Missouri, in that case?

A. The same reason as stated a little while ago: It is the practical method of operating the yard. There is no regard paid at all to the Kansas line, in those yards.

Q. It is about a quarter of a mile, I believe you said, from the point where you deliver the stock to the Stockyards Company, to your State Line Yards?

A. Yes, sir. But you must remember when I say ¼ of a
3660 mile, I did not say ¼ of a mile from the stockyards to the point—I didn't say ¼ of a mile straight distance. The stockyards are located on a curve off from the main line in that State Line Yard. And the distance from that curve to the main line takes up almost that distance of a quarter of a mile.

Q. The train I spoke of, being loaded at the stockyards, must necessarily go to your State Line Yards before going on to the west or north?

A. It is already in the State Line Yards.

Q. I understood you to say it would be a quarter of a mile from

your State Line Yards to the point where you would load or unload stock at the stockyards.

A. No, sir, I didn't say that. I said the Kansas line is about ¼ of a mile from the stockyards, where we unload stock.

Mr. HAGERMAN: You also said about ¼ of a mile from the Kaw River.

A. And the stockyards are located in the State Line Yards. There is a difference there.

Mr. KENNISH:

Q. Is the depot you spoke of in Kansas City, Kansas, is that a Kansas City terminal? You said in answer to Mr. Hagerman that there was a passenger depot in Kansas City, Kansas.

A. That is on the other side of the river.

Mr. HAGERMAN: Is that at Minnesota Avenue?

A. Yes, sir, Minnesota Avenue in Kansas City, Kansas.

Mr. KENNISH:

3661 Q. Are there yards in connection with that depot?

A. I think they have one or two delivery tracks.

Q. Is that in the Kansas City terminals?

A. Yes, sir, it is considered so, it is a station by itself, to handle Kansas City, Kansas, business.

Q. How about the expenses of the terminals there?

A. That is in the Kansas City terminals.

Mr. LADD: Statements were made here yesterday about the distance from the State line to Ramapo: Now where is Ramapo, relatively to your stations and passenger and freight house in Kansas City, Kansas: Is it north?

Mr. HAGERMAN: Let us call that the Minnesota Avenue yards, to distinguish it?

A. Ramapo is a little over two miles north of Kansas City, Kansas.

Q. So the Kansas City terminals extend right through, so as to take in this freight and passenger house in Kansas City, Kansas, and go two miles further north up the Missouri River to Ramapo: Is that right?

A. Yes, sir.

Mr. KENNISH:

Q. Is all the expense of that passenger depot and yards in connection with it, charged to the Kansas City, Missouri, terminal charges and expenses?

A. I believe so.

Q. And yet it is used mainly for Kansas City, Kansas, passengers and freight, isn't it?

3662 A. There is very little freight business done there. It is used for that purpose.

Q. Do you know how many side-tracks and switches are used in connection with that depot and yard in Kansas City, Kansas?

A. You speak now of this Minnesota Avenue?

Q. If that is it.

A. I think there are two there. Not more than two.
Q. That is across the Kaw River in the State of Kansas, is it?
A. Yes, sir.
Q. How far from the State line?
A. Nearly two miles.
Q. Practically all of the passenger business done at that station would be Kansas City, Kansas, passengers, wouldn't it?
A. Yes, sir.
Q. And a great deal of the Kansas City, Kansas passenger business would be done at the Union Depot in the State of Missouri?
A. Yes, sir.
Q. Do you think it is proper that the expenses of the Kansas City, Kansas, depot and yards, we have been speaking about, should be charged to Missouri?
A. I do.
Q. You said in answer to Mr. Hagerman that you thought it was just as well to let Missouri have the benefit of both the earn-
3663 ings and expenses at the Kansas City terminals?
A. Yes, sir.
Q. What earnings do you refer to?
A. Switching earnings.
Q. What else?
A. That is all I refer to.

Mr. HAGERMAN:

Q. Would you include demurrage in switching earnings?
A. Yes, sir.

Mr. KENNISH:

Q. There is an element of switching expenses as well as switching earnings in the terminal business at the Kansas City terminals?
A. That is taken into expenses.
Q. The switching earnings would represent what you receive from other companies for switching?
A. Yes, sir.
Q. And the switching expenses would represent what you paid other companies for the switching they did for your company?
A. Yes, sir.
Q. If what you paid other companies for switching would exceed what they paid you, then Missouri would get nothing out of the earnings for switching?
A. If that was the case is would not.
Q. You have not stated whether it was the case or not.
A. I did not.
Q. Do you know, on that point?
A. You have stated that question, I have not stated it.
3664 Q. Do you know whether or not the switching expenses at the Kansas City terminals would exceed the switching earnings?
A. I do not.
Q. What is the difference between the two?

A. Do you mean the absorbed expenses?
Q. The switching expenses.
A. What do you call switching expenses?
Q. Whatever you have to pay other companies for switching.
A. About 50 per cent of the switching earnings.
Q. It would be 50 per cent of as much as you receive from other companies?
A. About 50 per cent.
Q. I believe you said you thought it was right that all the expenses of these entire terminals, including those in Kansas as well as in Missouri, should be charged to Missouri?
A. Yes, sir.
Q. Suppose that your line had no eastern outlet from Kansas City, Kansas, to Kansas City, Missouri, or southern outlet, but had just the western and northern lines, we have been referring to, such as your line is here at St. Louis, having no line further east: Would you still think it proper to charge all the expenses of those terminals to Missouri?
A. I do.
Q. Why would you consider it proper in that case, proper to charge it to Missouri, Mr. Fisher?
3665 A. Because all the expense of handling that shipment is done in the State of Missouri.
Q. The terminal expenses of the Kansas City, Kansas, terminals, amount to about eight hundred thousand dollars a year, don't they?
A. I believe that is what the statement shows.
Q. And about how much would the excess of switching earnings over switching expenses amount to in the year at the Kansas City terminals?
A. The switching expenses over switching earnings?
Q. Switching earnings over switching expenses, the balance in favor of your company?
A. What did you estimate the switching expenses?
Q. What you pay, compared with what you received.
A. I cannot give you those figures. I haven't them.
Q. Can you give an estimate of them? You gave about what the switching earnings amounted to per month and you said the switching payments would be about 50 per cent of that per month?
A. Oh, it would amount to about 75 or 80 thousand dollars a year.
Q. That is, the earnings would exceed your switching payments that amount per year: Is that right?
A. Yes, sir.
Q. Then assuming in the case I have stated that the expense of the terminals would remain about the same, about eight hundred thousand dollars a year, Missouri would be charged with
3666 about eight hundred thousand dollars terminal expenses and would receive as earnings about seventy-five thousand dollars?
A. To do what?
Q. From the business of your company.
A. You are putting up an assumed case entirely. You are using

earnings and expenses, percent of expenses of Kansas City, Missouri, to something that might happen on some particular business?

Q. Yes, but that would not change the principle. I asked you if you would say in case your company had no eastern line beyond Kansas City or no southern line beyond Kansas City, that all the terminal expenses at that point should be charged to Missouri, notwithstanding; and I understood you to answer it should.

A. If we had no such lines we would not have such extensive terminals and would not have such extensive expenses.

Q. No, sir, but it would be on the same proportion as I have stated?

A. Probably so.

Q. And you say in that case all the terminal expenses should be charged to Missouri, notwithstanding it got no part of the earnings on the freight, except what it got for switching?

A. I do.

Q. And what it received for switching exceeded what it paid out for switching?

A. Yes, sir.

3667 Q. And if it happened to pay out more than it received for switching——

A. Which is not probable.

Q. Why not?

A. Because it does not run that way.

Q. Isn't it possible that business might be such that your road would pay out more for switching than it received?

A. I have not known of it in that particular manner.

Q. Take the roads your company does business with, there must be some of them that pay out more than they receive: Isn't that true?

A. I cannot speak for any other line than the Missouri Pacific. What other lines do I cannot tell you. I am not conversant with their operations.

Q. Suppose your line should in some year pay out more for switching than it receives, you would think your manner of charging up the entire cost of the Kansas City terminals to Missouri, when it received nothing of the earnings from the freight business, was a proper way to charge it up, would you?

A. Oh, well, you can put in any kind of an assumption, but when you go to put it in practical operation it won't work out. That is a poor way to put it.

Q. You estimate, do you, that the receipts from switching at the Kansas City terminal exceed the payment made for switching by sixty thousand dollars per year?

A. Approximately.

3668 Q. What items do you give—I did not catch the first one, in giving your opinion as to the increased cost of State business over inter-state?

A. The light tonnage of the local freight trains.

Q. The light tonnage?

A. Yes, sir.

Q. What was the next?

A. The difference in the cost of the train men.

Q. Now on the item of light tonnage of the local trains, were you using the term "local" in the sense of the train that does the State business?

A. Yes, sir.

Q. But you know, Mr. Fisher, that the local trains, according to the showing made by your company on some of the exhibits in this hearing in evidence show that the local trains carry a much larger percentage of inter-state freight than they do of State freight?

A. They do in some of those trains——

Q. Don't they in all of those trains?

A. Let me finish my answer. I said they did on some of those trains: That was caused by the carload interstate freight being carried a short distance on the local freight train, making the average for that train that day, greater for inter-state than State freight. But it does not naturally follow that the same ratio would apply every day in the month or every day in the year.

3669 Q. I will ask you if it is not a fact that in all the local trains in which an estimate, or in which your employés made an estimate, or by exact count, of the proportion of State and inter-state freight, do not show a much larger percentage of inter-state freight than State freight?

A. It did.

Q. I believe the investigation was in regard to six local trains, wasn't it?

A. Yes, sir.

Q. And the result shows about 63 per cent of the carload freight carried by those local trains was inter-state freight?

A. Yes, sir, that is right.

Q. And about 37 per cent State?

A. Yes, sir.

Q. Do you dispute those figures and say they are not representative of the general business transacted on your line?

A. I do not dispute them but I want to say that they would not represent that more inter-state tonnage was hauled on those State trains than State freight. Nor would it show that the inter-state freight was greater than the State freight on every local freight train on the Missouri Pacific Road.

Q. Wasn't that estimate made by tonnage?

A. Nor would it show that the same ratio would apply monthly.

3670 Q. In other words, you mean to say the results ascertained from an examination of those six trains is not representative of the business done by your system in Missouri?

A. Not done all the time. It is representative of the trains that are represented on that statement.

Q. What was the purpose of making that investigation?

A. The purpose of making the investigation was to see what those trains actually did carry and it was to show here just exactly what they did carry.

Q. And it showed a much larger percentage of interstate than State freight?

A. It did.

Q. But you say now that would not indicate that that condition existed generally on your lines in Missouri?

A. That is what I said. It does not follow that it does, because those six trains happened to have on those particular days more inter-state freight than they did State freight.

Q. Wouldn't it be just as apt to happen if you extended your investigation, that it might show an increase of inter-state than State freight, as to happen the other way?

A. Oh, yes, it might. But you must remember, in those investigations or in any investigations you made, Washington, Missouri, Pacific, Missouri, and nearby towns to St. Louis, receive their coal and raw material from points outside of the State of Missouri; and that is a very short distance from St. Louis. Local freight trains carry all that freight, on account of that condition, the inter-state freight naturally is in excess or in a greater proportion than the State freight.

Q. In making this investigation your employés did not
3671 select points for local trains that you thought would make an unfavorable showing for the company in this litigation, did you?

A. We took the main artery of our line, so there could not be any dispute, nor could the State say that we took any undue advantage, and we showed the conditions as they existed. And I am now merely supplementing that statement by saying, that the product, the material for those plants, at Hermann, Pacific and Washington, Missouri, and the coal for the operation of those plants, is received from points outside of the State of Missouri. That is all inter-state freight every pound of it. Naturally the inter-state freight will exceed the State freight. The proportion of one to the other is in favor of the inter-state freight.

Q. Do you mean by that to say you selected local trains upon which you thought the percentage of inter-state freight would be in excess of what you thought it would be shown on your system in Missouri?

A. I ordered the local freight taken from St. Louis to Kansas City all the way through.

Q. You said you aimed to take local trains that would be fair to the State.

A. No, sir, I did not. I said we took the main line trains.

Q. Didn't you say that in selecting the local trains upon which the investigation was made, that you selected such trains as could not be complained of by the State?

3672 A. I said we selected the main line trains so there could not be any complaint made.

Q. They are representative trains?

A. Most assuredly.

Q. You are not meaning to say they are not representative of

what the showing would be on the local trains in Missouri generally?

A. No, sir, I am merely supplementing that statement, That is all.

Q. And you said something about tonnage of State as compared with inter-state freight: That investigation was made on the tons per mile basis?

A. No, sir, not ton per mile.

Q. On the tonnage carried?

A. Yes, sir.

Q. I asked you if in speaking of the light tonnage of the local trains as a reason why you gave your opinion of the increased cost of State over inter-state traffic you used the word "local train" in the sense that it carried State freight only, and you answered that you did?

A. No, sir, I gave no such testimony.

Q. What was your answer?

A. I said local freight trains carrying State and inter-state freight, through trains carrying State and inter-state freight.

Q. Didn't you answer that in giving the reason for the increased cost of State traffic, that the local train was a
3673 train of lighter tonnage, and that you considered it State freight largely.

A. I said it carried State and inter-state freight.

Q. If it carried inter-state freight in the same proportion that the total of inter-state freight bears to State freight, that would not be any reason at all for the increase of cost of State traffic, would it?

A. It might not the way you make it out.

Q. If the local trains carry 63 per cent of their load as inter-state freight, it would not be proper to charge the increased cost of that local train all to State traffic?

A. You forget that inter-state freight carried on that local freight train does not go the entire run of that train. It is carried only a short distance. The application you are trying to make could not be applied in the same sense.

Mr. HAGERMAN:

Q. He does not allow for the difference in the haul?

A. No, sir, he wants the inter-state freight hauled the entire distance, and it does not go that far.

Mr. KENNISH:

Q. Do I understand you to say that the distance the State freight was carried on your local trains was much in excess of the distance the inter-state freight was carried: Is that right?

A. I did not say that.

Q. What have you said on that?

A. I haven't said anything yet.

Q. You said that while the per cent of inter-state freight
3674 was 63 per cent of the total freight carried on the local trains, that would not indicate that the 63 per cent of the freight business for the local trains was inter-state business?

A. No, sir, I didn't say that.

Q. What did you say on that?

A. I said the proportions you gave there for inter-state freight, was not carried the full length of that local freight train run. It was carried only a short distance. And by reason of that it was not fair to make the assumption you did.

Q. Then do you estimate the State freight was carried the full run of the local train run?

A. No, sir, I know better than that.

Q. Do you assume the State freight was carried a greater distance on that local run than the inter-state freight?

A. No, sir, I haven't said that.

Q. Why then does your assumption make any difference?

A. It makes a difference in the cost of handling, that inter-state freight as against State freight that is carried the full length of that run for that day.

Q. But suppose the inter-state freight carried the full length of the run remained the same amount of percentage of the inter-state freight carried.

Q. Then you would have to adopt a sliding scale in arriving at your cost for doing the State as against the inter-state business for that day's run.

Q. Hove you any definite knowledge upon that point as to whether inter-state freight was not carried as far on the

3675 run of that local train as the State freight?

A. Not positive. But I understand they were carried only as far as Washington on the local train running out of St. Louis.

Q. Where were these local trains upon which this investigation was made, running?

A. The first one was running from St. Louis to Jefferson City. The second one from Jefferson City to Sedalia. The third one from Sedalia to Kansas City.

Q. Then the difficulty you speak of as existing from St. Louis to Washington would apply to only one of the six trains referred to?

A. There is very little inter-state freight carried on the other two divisions, compared with the inter-state freight carried on the St. Louis division.

Q. Then assuming a much larger part of the freight carried by the local trains was inter-state freight, then a large part of the expenses incurred by reason of the greater expense in operating local trains, would necessarily have to be charged to the inter-state freight?

A. Yes, sir.

Q. It would not do to charge all of the expenses of operating the local trains to the State freight?

A. No, sir, and that is where your difference of two to six comes in. You have to have a sliding scale in there for the variation of your differences of State and inter-state freight.

3676 Q. You say it would cost from two to six times more to do the State freight business than the inter-state?

A. Yes, sir.

Q. Do you mean by that two to six times per ton per mile?

A. No, sir.
Q. What do you mean?
A. The actual cost.
Q. The actual cost of the freight carried?
A. The actual cost of handling that freight.
Q. Wouldn't that be the cost per ton per mile?
A. No, sir.
Q. Then on what basis would you make your estimate?
A. On the actual cost of performance. Find out what the actual cost is for moving the State and inter-state freight on local trains, the proportion of State and inter-state freight carried on local trains, for that particular time or given period, and take the actual cost of handling through freight and inter-state freight on through trains. That is my method of getting at it.
Q. Is there any way of getting at that exactly?
A. It is approximate. You can approximate it. That is as near as you can get at it. In my opinion it is a more correct basis than your per ton per mile basis.
Q. Then the local trains upon which your investigation was made, you would charge 63 per cent of the increased cost of operating that train to inter-state traffic?
3677 A. For what period?
Q. For any period.
A. For that one train, I would.
Q. You took those trains as representative of the business, didn't you?
A. I would only take that for that one day's business.
Q. You have no other investigation you made to make a different basis upon than that ascertained from that investigation, have you?
A. No, sir, if I were going to make an investigation I would not make it for any given period. That is, the period would have to extend over quite a time in order to get at any fixed or nearly approximate difference of the freight handled of State and inter-state in any train. You cannot take a period of a week or a month and use that as a basis for the balance of your life-time. Nobody would agree to that.
Q. In the investigation you made of the freight carried on through trains, I believe you examined about eight through trains, didn't you?
A. Yes, sir.
Q. And that investigation disclosed that about 7 per cent of the through freight between St. Louis and Kansas City was State freight?
A. Yes, sir.
Q. And 93 per cent inter-state freight?
A. Yes, sir.
Q. There would be no increased cost of the State freight
3678 as compared with inter-state freight carried on those through trains, would there?
A. No, sir, not much if any.

The MASTER:

Q. I don't know that I quite understand you, Mr. Fisher, and it is very desirable I should do so——

A. I will try to explain.

Q. You say that in your opinion it will cost from two to six times as much to carry State freight as it costs to carry inter-state freight?

A. Yes, sir.

Q. But you now say that you have no reference to the ton mile basis: Now what did you mean then? What is your standard of measurement? What is your method of comparing the two different sorts of freight: Does it cost from two to six times to carry all the local freight that is handled by the Missouri Pacific, that it costs to handle all of the interstate freight? Or does it cost two to six times as much to carry a single ton of State freight as it costs to carry a single ton of inter-state freight? Or, does it cost two to six times as much to earn a dollar in the transportation of State freight as it does to earn a dollar in the transportation of inter-state freight: There must be some standard, and I want your standard.

A. It costs from two to six times as much to earn a dollar in State freight business as to earn a dollar in the inter-state business.

3679 Q. That is the basis of your theory?

A. Yes, sir.

Mr. KENNISH:

Q. Then why would you say two to six times, putting it all on that basis?

A. I said a little while ago that the reason for the difference in two to six times, is to take account of the variation of inter-state freight carried on local trains and State freight carried on through trains.

Q. On that basis now, do you take into consideration the rates received for the carriage of State freight as compared with the rates received for the carriage of inter-state freight

A. No, sir, we are dealing only with the cost of doing this business now.

Q. You do not take into consideration the rates on the two different classes of freight?

A. No, sir, I have not taken that in.

Q. Would not your basis be practically the same as the ton mile theory?

A. No, sir, I think not.

Q. Wouldn't it mean that to carry a certain amount of freight as State freight, it would cost from two to six times as much as to carry the same amount and the same kind in inter-state freight, carried in the State of Missouri?

A. The per ton per mile theory, in my opinion, is merely for statistical purposes, and is not worth anything at all in arriving

at a proposition of this kind. That is the way I look
3680 at it.

Q. You know that a great many railroads do adopt the ton mile theory, even in arriving at the cost of conducting the freight business?

A. That does not make it proper in my opinion, because they do it.

Mr. HAGERMAN: Not in this kind of an inquiry.

Mr. KENNISH:

Q. You know that Mr. Clark, who appeared as a witness on behalf of the Missouri Pacific Railroad, said that he was a ton mile man?

A. Maybe he is, but that is no reason why I should be a ton mile man, because some one else is a ton mile man.

Q. But when you say the ton mile is useful only for statistical purposes——

A. That is the way I look at it.

Q. I want to know if you mean by that, that no railroad men adopt it as the basis of the cost of the freight traffic?

A. If they do they may have some reason for it, but I do not consider it is proper, using a ton per mile basis for arriving at the cost of doing any one particular thing.

Q. You say if they do take that basis you do not consider it a proper basis: Don't you know as a fact that they do take that basis in a great many instances?

A. I have heard them say they did, and I know they do, for statistical purposes. But that does not mean it is absolutely correct, and that does not mean it should be used in a perform-
3681 ance of this kind. You can use any kind of a unit and any kind of a basis and make statistics, and use it month after month and year after year. But that does not necessarily mean that the basis is correct.

Q. If you do not take into consideration the rates received for carrying State freight as compared with the rates for the carriage of inter-state freight, why is it necessary for you to give yourself the latitude of two to six times? Why could-'t you base your opinion upon some definite figure, as near as you could? Why the necessity of latitude of two to six times?

A. You are going over that same ground twice now. What is the use of going over it again?

Mr. HAGERMAN: Give it to him again.

A. I said, that on account of the difference of inter-state freight, of the greater amount of tonnage of inter-state freight carried on local trains as against the amount of State tonnage carried on through trains, it was absolutely necessary to use a sliding margin in there, which I use, as two to six times, in order to take account of that cost of doing the State business as against the inter-state business.

Mr. KENNISH:

Q. On that basis now you would have to assume that the rates applicable to both kinds of freight were the same, wouldn't you?

A. Not in arriving at the cost.

Q. The cost of earning a dollar. When you say your basis is that it would cost two to six times as much to earn a dollar
3682 on the State freight business as on the inter-state business, does that necessarily presume some standard of rates for earning the dollar?

A. Yes, sir, it does to some extent.

Q. And you would have to apply the same rate to both classes of freight, upon that basis?

A. To some extent, yes.

Q. Which rate would you take in the opinion you gave, the rate received for the inter-state business or the rate received for the State business?

A. I would take the rate received on State freight for the State business: And the rate received for inter-state freight on inter-state business. And the——

Q. Didn't you answer——

A. I am now trying to answer the proposition according to your idea.

Q. Excuse me, I thought you had finished your answer.

A. And take into consideration the relative cost of one to the other, and that in my judgment would then enable you to give approximately the cost of doing the State as compared with the inter-state business.

Q. Then your position is this: That in order to carry a given quantity of freight, say a carload of coal, as State freight, even if the State rate would be twice that of the inter-state rate, it would cost the company from two to six times as much to carry that carload of coal as State freight as it would to carry it as inter-state freight.

3683 Mr. HAGERMAN: I object to counsel stating that the witness has taken such and such a position. This witness has made very plain his position, that taking everything into consideration, as a whole, his multiple is two to six. I object to counsel stating that he has said it applied to any particular shipment.

The MASTER: That is very true, and much confusion has, I think, arisen in the examination and cross-examination of witnesses on this point. Yet, nevertheless, while the statements made by the witnesses are in general terms, and have on application to individual shipments, yet that ought not to preclude counsel from testing the rules laid down, to see whether or not it would apply to individual shipments.

Mr. HAGERMAN: I haven't any objection to him stating, but my objection is his stating to the witness "your position is that it costs two to six times, or ten times to carry one particular ton or one particular car" because the witness has never taken any such position. He can ask him if he takes any such position, but he has not any right to state that he has taken it.

The MASTER: Then the objection is, that the question is not interrogative in form. That is very often done. I can see no objection to that. It is an interrogation although not in interrogative form. The objection is overruled.

The preceding question is read to the witness.

3684 A. Yes, sir, it would.

Mr. KENNISH:

Q. You say it would?

A. Yes, sir.

Q. Then the higher the rate received for the State traffic, the greater would be the cost of carrying that freight?

A. No, sir, not necessarily. You forget that in a State shipment, while the rate is higher than the rate on an inter-state shipment, the extra terminal cost for the State shipment will about offset the difference in the rate on inter-state as compared with State.

Q. That is another element, the additional cost by reason of the terminal?

A. All these things have a practical bearing on the cost of doing this business. You cannot set out any single item or any single proposition.

Q. What do you estimate the terminal cost per ton?

A. On what kind of freight?

Q. Any kind.

A. Carload or less than carload?

Q. Say inter-state freight and State freight, taking both kinds, carload and less than carload inter-state and carload and less than carload State, would there be any difference in the terminal cost in that case?

A. There is a difference in the terminal cost of carload State freight as against carload inter-state freight.

Q. What is that difference?

3685 A. The difference is one extra handling of the empty car in the terminal.

Q. Will you explain how that occurs?

A. A man makes a State shipment—I am assuming the other end of it. I am assuming the inter-state shipment comes from a point beyond our rails now,—is that the way you understand it?

Q. I was just giving the general division of State and inter-state, taking the entire freight business of both classes.

A. If a shipper in St. Louis orders a car to be loaded at his industry, it is necessary for our switch engine to get that empty and place it on his side-track or on our side-track, convenient for loading. It might be necessary, in order to get that empty placed at his house or some convenient place for him to load, to set it to a connecting line, which would cost us switching. When that car is loaded it comes back in the same manner, and is then put into a train.

An inter-state shipment is received from a connecting line track and put into the train. It is that extra handling of the State ship-

ment in the terminal yard, that makes the cost greater in that terminal.

If, however, the shipment is inter-state, loaded by this man in St. Louis, there would not be any extra cost between that State shipment as compared with the inter-state shipment in St. Louis. But there would be a greater cost of handling that State shipment than the inter-state shipment, on account of the extra terminal in the
3686 State of Missouri as against only one terminal for the inter-state shipment.

Q. Take that case you have just mentioned and suppose the car loaded in St. Louis instead of going to an interior point in Missouri goes to a point an equal distance in the State of Illinois: In the latter case it would be an inter-state shipment but would there be any difference in the terminal cost?

A. Not in the terminal cost in St. Louis. But there would be one extra terminal cost, at the destination, if it was a State shipment; if an inter-state shipment, the extra cost would be outside the State of Missouri.

Q. Take it at the western border of Missouri, where your road runs into Kansas, and suppose a car is loaded for a point in Missouri, say 100 miles distant from Kansas City. The car is loaded with the same kind of freight, destined to a point 100 miles in the State of Kansas: Would there be any additional terminal cost in the State shipment, in that case, as compared with the inter-state shipment?

A. There would be at destination in Missouri as against the Kansas shipment, because that would not be chargeable to any portion of Missouri. That would be a Kansas shipment or an inter-state shipment.

Q. So far as the earnings of the company are concerned, there would be no difference on the matter of terminals, would there, in those two cases?

A. No, sir, not in Kansas City terminals, but there would be at destination.

3687 Q. Why at destination?

A. One is in Missouri and one is in Kansas.

Q. But would not the terminal cost in Kansas be as much as the terminal cost in Missouri?

A. If the conditions were the same in Kansas as in Missouri, yes, sir.

Q. I was not assuming the conditions were different.

A. You do not say anything about conditions, and I must fortify myself in answering these questions, as to what you are trying to assume.

Q. You said there would be a difference in the terminal charge in a State as compared with an inter-state shipment; and you gave an illustration of a shipment coming from another line to your line: Would that same thing be true if the State shipment came to your line from another line?

A. At St. Louis?

Q. Any place.

A. I don't understand.

Q. I understood you to say that if an inter-state shipment came from the east and was delivered to your road in St. Louis, destined to a point on your road in Missouri, you would have but one terminal charge in that case.

A. No, sir, I did not say that.

Q. As compared with a shipment originating here in St. Louis, and destined to some point in Missouri, wasn't that your illustration?

A. No, sir, I think not. It might have been. Take a
3688 carload shipment from a connecting line going to a point in Missouri, and a shipment originating in St. Louis going to points in Missouri, the State shipment has a greater expense for St. Louis terminals than the inter-state shipment has. The same expense at destination. The expense is the same at the destination for State and inter-state shipments.

Q. Now suppose the shipment you received in St. Louis, Missouri, was a State shipment: Suppose it came from the Iron Mountain Road and was a State shipment: Then there would be no increase of the terminal cost in that case for the State shipment as compared with the inter-state.

A. I believe you consider the Iron Mountain an inter-state shipment in this case.

Q. No, sir, I am considering it a separate road and consider a case where the shipment would originate in Missouri.

A. If you consider it a separate road, it is inter-state shipment.

Q. Although it originates in Missouri.

A. I believe the Iron Mountain, for the purposes of this case, is considered a connecting line.

Mr. HAGERMAN: He is speaking of State and inter-state.

Mr. LADD:

Q. I don't care where it originates, provided it originates in Missouri, and is delivered to the Missouri Pacific Railway here in St. Louis. Would there be any increased cost on the State business in that case compared to the inter-state shipment you re-
3689 ferred to?

The MASTER: It is perhaps fair to state to the witness that even although a given quantity of freight may have passed over a dozen or any number of connecting railroads, between its point of shipment and its destination, if both its point of shipment and its point of destination are in the State of Missouri, and it does not pass out of the State of Missouri en route, it is as much State commerce or State freight, as we call it here, as though it originated on your line in the State of Missouri and terminated on your line in the State of Missouri.

A. I think I understand that. I understood it that way. But I also understood it that the Iron Mountain Railroad, for the purpose of this suit, would be considered the same as any inter-state shipment, any shipment originating in Missouri on the Iron Mountain Railroad would be considered an interstate shipment just as much as a shipment originating in Illinois or Indiana.

Mr. HAGERMAN: No, sir, that would not be so.

A. Then I misunderstood the proposition.

Mr. LADD:

Q. Suppose it would be a State shipment, when it came over the Iron Mountain Road or any other road, provided it had its origin at some point in the State of Missouri and did not go outside the State of Missouri in reaching St. Louis, and at St. Louis it was delivered to your company: There would not be any increased terminal cost in that shipment as compared with the inter-state
3690 shipment you referred to as being delivered to your company here in St. Louis, and destined to a point in the State, would it?

A. It would be the same difference as though the shipment originated at a local point on the Missouri Pacific, or in St. Louis, and went to a station in Missouri. We have two terminals in that shipment, just the same as you have two terminals in the local shipment, to take care of.

Q. I understood you to say, Mr. Fisher, and to give as one reason for the increased cost of the State traffic, the matter of terminal cost: And you stated as an example, a shipment that would be delivered to your road here at St. Louis, Missouri, from some other road, that it was an interstate shipment: And you made a comparison between that shipment and a shipment which would originate on your road here in St. Louis, Missouri, it being destined to some point in the State?

A. Yes, sir.

Q. Now I ask you if the freight delivered from another road to your road in St. Louis, Missouri, was a State shipment, or would there be any increased terminal cost in that case, as compared with the inter-state shipment you referred to?

A. No, sir.

Q. And if any freight originating as State freight and being State freight, originating on some other line and delivered to your road at any place in Missouri, destined to some other point in Missouri, there would be but one terminal cost upon your theory, so
3691 far as your road was concerned, in that shipment?

A. No, sir, there would be a small terminal cost in order to get that shipment into the train, at whatever point we would receive it. But the cost would not be as great as if we would have to place an empty on some track for loading.

Q. But there would be the same decrease in the cost in the State shipment in the case I have mentioned as in the inter-state case you referred to?

A. Yes, sir, in that way.

Q. In all cases of inter-state shipments originating on some other line and delivered to your line to be carried to the destination of the shipment?

A. In a case of that kind it would.

Questions by Mr. LADD:

Q. Mr. Fisher, you heard Mr. Doddridge's testimony as to the results of the investigation of the business of these six local trains on the Missouri Pacific in December, 1906, did you?

A. Yes, sir.

Q. You remember, I presume, that the investigation showed on these local trains carload lots 63 per cent of interstate freight and 37 per cent of State freight: Do you remember that?

A. Yes, sir.

Q. Do I understand you to say, in your cross-examination that Mr. Kennish was conducting, that this was not in your opinion representative?

3692 A. It is representative of those trains.

Q. Oh, well, that does not mean representative.

A. I did not consider it so for 30 days' or for a year's business.

Q. You do not regard it as representative?

A. No, sir, and I never have thought so.

Q. I notice here that that investigation showed this state of facts: On local trains operated from Jefferson City to Pacific and from Pacific to St. Louis on the 21st of December, 1906, there was in carload lots 450,700 pounds of State freight and in carload lots 966,872 pounds of interstate freight: More than twice as much inter-state carload freight as State carload freight: Did you undertake in your cross-examination to account for that in any particular way?

A. I did not account for that.

Q. Did you say anything about the fact that it happened to be running into St. Louis accounted for it?

A. That question was not brought up, if I remember correctly.

Q. Did you say there would be expected to be more inter-state carload freight running into St. Louis than on the other divisions of the road: Did you make that suggestion?

A. No, sir, I was speaking of west-bound business, in answer to Mr. Kennish's question. East-bound business had not been taken into consideration.

Q. The west-bound business had not been taken into consideration?

A. East-bound.

3693 Q. This is a train that runs from Jefferson City to Pacific and from Pacific to St. Louis?

A. Yes, sir.

Q. That is east-bound, isn't it?

A. Yes, sir. In my explanation I did not say anything about east-bound business. I was talking about west-bound inter-state freight.

The MASTER: He said the amount of inter-state freight was perhaps largely increased by reason of the fact that Pacific, and the stations named, received their coal, which was usually from outside the State?

A. That is what I said.

Mr. LADD: Your Honor remembered it and I didn't and the witness does not seem to.

The WITNESS: I did remember it. I used that as the basis for accounting for that difference in inter-state freight.

Mr. LADD:

Q. That would not account for the inter-state freight on the train from Jefferson City to St. Louis?

A. No, sir.

Q. Those coal deliveries which might be made at Pacific?

A. That would not have anything to do with that train.

Q. I see the same statement shows that on the 19th of December the train from Sedalia to Jefferson City carried carload freight 74,500 pounds of State freight and inter-state 334,340 pounds, nearly twice as much?

3694 A. Yes, sir.

Q. The coal delivered at Pacific would not account for that, would it?

A. I did not try to make any comparison of the trains east.

Q. I would like to ask you if you think the results of this showing as between the amount of inter-state carload freight and State carload freight as compared on those trains is anything extraordinary?

A. Anything extraordinary?

Q. Yes, is it an extraordinary showing?

A. I never saw it come out just that way before.

Q. Have you ever seen a statement of this kind before, or any other statement?

A. I have seen it on particular lines but not for so long a distance as that.

Q. Have you any of them?

A. Not with me.

Q. You think the result of this is unusual?

A. I think so.

Q. In what respect?

A. In a great many respects. That the conditions were favorable to inter-state freight.

Q. I do not exactly understand what you mean to say by that?

A. It just so happened that we carried more inter-state freight on those trains than we did State freight.

3695 Q. The last of these trains seems to have run on the 21st of December, 1906.

A. No, sir, that examination was made the week before Christmas, I don't remember the date.

Q. December 21, 1906, is the last one here.

A. The local freight trains ran from St. Louis to Jefferson City, Jefferson City to Sedalia, Sedalia to Kansas City, and in the reverse direction. They were covered by four men and that is the result of it there (indicating statement).

Q. Here is one on the 19th of December, your local train running from Sedalia to Kansas City, carried seventy thousand pounds in carload lots of State freight and two hundred thousand six hun-

dred pounds of carload freight of interstate freight, nearly three times as much?

A. Yes, sir, and that is our main line. But if you take the branches, the conditions would be reversed, no doubt.

Q. But on the branches, your local trains, it has been testified here, carry all your inter-state freight?

A. What branches?

Q. They were mentioned here. Some witness testified to it. I think Mr. Stith.

A. I did not so understand it.

Q. Take what is called the Bagnell Branch, from Jefferson City to Bagnell and I will ask you if those are all the local trains or way trains.

3696 A. They are mixed trains.

Q. Is that a local train or a way train?

A. It is a mixed train. It is local and passenger combined.

Q. Do you run any through trains on that branch?

A. No, sir, I said it was only one train, and that was a mixed train.

Q. Take your road down from Boonville, down to Versailles, does not that do all the local business from Boonville to Tipton, on the local trains?

A. Yes, sir, there is practically a mixed train on that run. That is all there is.

Q. Take your line from Lexington down through Sedalia to Versailles and I will ask you if the local trains do not do all the business between Lexington and Warsaw?

A. There is no train running from Lexington to Warsaw.

Q. Lexington to Sedalia and Sedalia to Warsaw?

A. There is a mixed train there.

Q. The local train does all the business there?

A. Yes, sir.

Q. Mr. Fisher, I think you said you had been attending the hearings in all these cases except the first one here and the Burlington case at Chicago: Is that right?

A. The only Burlington hearings I have attended is the last one in Kansas City and the one in St. Louis.

Q. And you have attended constantly all the hearings in the Wabash case?

A. Yes, sir.

3697 Q. You were not at Chicago then when testimony was introduced in the Burlington case as to the relative cost of doing State and inter-state business?

A. No, sir.

Q. Have you read any of that testimony?

A. No, sir.

Q. Have you been told about it?

A. I have heard them speak about it, yes. I have heard the witnesses refer to it.

Q. Do you know, as it has been reported to you, the substance of the witnesses' testimony on that point up there?

A. I have heard them discuss it and have also heard Mr. Taliaferro testify in the Wabash case, what the substance of that testimony was in the Burlington case at Chicago.

Q. You say that in your opinion it costs two to six times as much to do State business as it does the inter-state business: Is that right?

A. Yes, sir.

Q. When did you arrive at that conclusion?

A. Between June, 1906, and today.

Q. When did you first arrive at that conclusion, June, 1906, you say?

A. Yes, sir.

Q. And you have been of the same opinion ever since?

A. About the same, yes, sir.

Q. And you have not varied your opinion since that time, have you?

3698 A. No, sir, I think the variation of two to six will take care of all variations necessary.

Q. You are still of the same opinion that you were in June of last year, are you?

A. Yes, sir.

Q. Was the result of this investigation (indicating statement of investigation of trains made by Mr. Doddridge) any surprise to you when you saw it?

A. Yes, sir.

Q. You thought the way trains would carry a larger proportion of State freight, didn't you?

A. No, sir, I did not.

Q. In what respect was it a surprise?

A. I did not think the proportion was as great as it showed. But it was no surprise. I did not expect the State freight would be more than the inter-state carload freight. I knew and was satisfied that the State less than carload freight is always greater than the inter-state less than carload freight.

Q. You are satisfied that the State less than carload freight is always greater than the inter-state less than carload freight?

A. Yes, sir.

Q. This statement shows the reverse?

A. I don't know. I have not the statement here to show it.

Q. You heard Mr. Doddridge's testimony?

A. I did not know whether he testified to that particular

3699 class of freight or not.

Q. Was not this investigation made under your supervision?

A. If you let me see the statement I will answer your question.

Q. Certainly you may see the statement and I want to ask you first whether the investigation of these six locals and perhaps eight through trains, in last December, on the Missouri Pacific Railway, was not made under your direction.

A. It was.

Q. It was?

A. Yes, sir.
Q. And you knew the result when it came in, didn't you?
A. Yes, sir.
Q. And reported it to Mr. Doddridge?
A. No, sir.
Q. How did he get it to testify to?
A. I gave it to him. I didn't report it to him. There is a difference between reporting to and giving a man a certain evidence, in my opinion. I am not reporting to Mr. Doddridge.
Mr. HAGERMAN: In other words, Mr. Doddridge is not your superior?
A. No, sir.

Mr. KENNISH:

Q. Anything more than that, Mr. Fisher?
A. No, sir, that is enough. I simply wish to explain my situation.
3700 Q. In what respect was the result of this investigation a surprise to you, Mr. Fisher?
A. In respect to the carload tonnage and the inter-state tonnage carried on local trains.
Q. It was much larger than you supposed it would be?
A. It was somewhat larger.
Q. Was it a good deal larger?
A. Yes, sir, a little bit.
Q. Which tonnage did you think would be the largest, in carload lots, on local trains: The inter-state or the State?
A. I thought it was about equally divided.
Q. Did the result of this examination produce any change in your opinion as to the relative cost of doing State and inter-state business?
A. No, sir.
Q. If it appeared that the inter-state carload freight instead of being 63% had been 90% of that total tonnage, would that have made any difference in your opinion?
A. If this statement was gotten up on a greater length of time basis than appears on this statement, the conditions might be reversed. But on this basis, I would not change my opinion at all.
Q. Assume for a moment, if you can, that this is a fairly representative showing, so far as it goes, of the entire business, of a whole year's business, would it change your opinion any?
A. If that were a fact, it might change my opinion.
3701 Q. Would it?
A. I am not going to assume anything on a proposition of this kind.
Q. I will ask you if you do not regard the proportion of State and inter-state freight carried on these local trains as a most important factor in the question?
A. Yes, sir, but not for just one local freight train over an entire division. You cannot use it in arriving at your basis.
Q. You refuse to be influenced by the result of this investigation,

because you think that a longer investigation would show a different result?

A. Yes, sir, I think so.

Q. If a longer investigation, and what you regard as a thorough investigation, showed the relative results to be exactly the same, it would influence your opinion, would it?

A. It could not help it.

Re-direct examination.

By Mr. HAGERMAN:

Q. The State line running through these State line terminals at Kansas City, runs in what direction—north and south?

A. As near as I remember it does, north to southwest.

Q. Practically north and south. And the Kaw River runs north and south at that point?

A. Yes, sir. It is hard to describe the direction of the Kaw River.

3702 Q. It tends to a northerly course, something akin to being parallel with the State line?

A. Yes, sir.

Q. Your yards are quite wide where these number of tracks are?

A. Yes, sir, we have probably six or eight or more tracks in that territory.

Q. The tracks in the yard finally lead down, how many tracks when they get to the point of crossing the Kaw River?

A. That is a double track bridge.

Q. They practically come to a point where the two tracks are?

A. Yes, sir.

Q. Where are the switching leads across the State line, or where they would throw a train being switched down into the stockyards, into Missouri, in each switch movement: Do you recall that?

A. I don't remember but I think we have some—well, I don't believe any of the leads going into the Kansas City stockyards are at the Missouri line.

Q. What I meant to say was, a train coming up to go into those leads, would necessarily cross the State line in making its movement?

A. Yes, sir. It would not be necessary if they would stop that train on the Kaw River bridge. But that is not the manner in which the yard is operated.

Q. That is what I am talking about: In the usual and 3703 ordinary operation of the road, to get down to the stockyards?

A. I am trying to give you the actual operation in the manner that the yard is generally operated, trains that go down to be loaded or unloaded at the stockyards, cross and re-cross the State line?

A. Yes, sir.

The MASTER:

Q. Mr. Hagerman, isn't there in the engineer's office of the company sufficient data or plats or something of that sort, from which could be compiled a plat of this whole condition there?

Mr. HAGERMAN: Yes, Your Honor.

The MASTER: It would throw a flood of light on this whole situation.

The WITNESS: We have a map, but it is a very large map.

The MASTER: It could be reduced to a small scale. Let it show simply the yards emphasized in this testimony.

Mr. HAGERMAN:

Q. You said something about while the company received in switching charges a certain sum, that it paid out probably 50% of that amount to other roads: Are the payments out treated as part of the transportation, in the way of absorption, or treated as an expense? or do you know?

A. I do not know how they would be treated in this case. I have always considered them treated as an expense.

Q. Either you or some other witness spoke of them as
3704 charges that are absorbed.

A. They are absorptions but they are the same thing. The absorption comes in the expenses.

Q. Practically it means the same thing as an expense to the company?

A. Yes, sir.

Q. By absorption you mean that after collecting the freight rate the company itself stands the expense of delivery over to the other track?

A. Yes, sir.

Q. And it takes it out of its freight rate?

A. Some companies charge that to earnings. I do not know how it was charged in compiling these statements here.

Q. After considering all the elements of the additional revenue that is received and delivered, that these gentlemen have mentioned, in your cross-examination, and all you know about this railroad, what do you say now upon all the business it does, how much more does it cost to do the State than the inter-state business—considering everything?

A. I should say it costs from two to six times as much to do the State business as to do the inter-state business.

Re-cross examination.

By Mr. KENNISH:

Q. I asked you, Mr. Fisher, if you could give an estimate as to the relative amounts of freight shipped from the Kansas City terminals north and west and south as compared with the amounts shipped in an easterly direction on your line?

3705 A. I cannot.

Q. Couldn't you give some estimate as to whether there was more in a shipment west and north and south, than there was east?

A. I never saw such a statement prepared so I cannot give you any estimate of it.

Q. Do you know whether or not any of the freight shipped from

Kansas City, Kansas, depot or yards, is billed from Kansas City, Kansas?

A. Kansas City, Kansas, freight is way-billed—that is this Minnesota Avenue station we call it—is way-billed from Kansas City, Kansas. All other freight originating in the terminals is billed as from Kansas City, Missouri.

Q. But all of it, including that billed at the Minnesota Avenue station, is charged to the Kansas City terminals?

A. Yes, sir.

Q. All of which is charged to Missouri.

A. Yes, sir, I so understand it.

Redirect examination.

By Mr. HAGERMAN:

Q. One thing Mr. Kennish did not include in his statement: In addition to giving Missouri credit for these earnings, the shipments that are made from the State line station over the Nebraska and Central Branch Divisions, is given as the shipments to Kansas, and treated as a shipment in Kansas and not to Missouri?

A. The expenses?

3706 & 3707 Q. No. It is allowed as Kansas business. But I asked you nothing about that. I mean, all shipments to or from the State line station, up north in Kansas over the Central Branch, or up into Nebraska, I believe Mr. Roth said they were treated as Kansas business and not as Missouri business at all?

A. They are way-billed from Kansas City, Missouri, and it is all Kansas City, Missouri, rate.

Q. But did not go into the earnings or expenses of Missouri? I am not speaking of the terminals now but the shipments.

A. Oh!

Q. As I understand it, all the terminal expenses go into the Kansas City, Missouri, terminals, but I am now speaking of the carriage from the State line station up on that northern and western branch. I understood Mr. Roth to say this morning, I do not know whether you have testified upon that subject or not, that that was treated as Kansas business and not as Missouri business, in the way they kept their accounts?

A. That might be true.

Recross-examination.

By Mr. KENNISH:

Q. Although you do say, Mr. Fisher, that those shipments would go into Missouri before reaching their destination?

A. Yes, sir, 99 times out of 100 they would cross the line. And if they are less than carload shipments and are loaded on our delivery track—they would not be from Kansas—if they are
3708 less than carload shipments it would start from Kansas City, Missouri, although the destination might be in Kansas.

Questions by Mr. LADD:

Q. Suppose a man doing business in Kansas City, Missouri, wants to send a whole carload of merchandise of some kind to Lincoln, Nebraska: He is doing business down in what we call the West Bottoms in Missouri: His warehouse or whatever it is is situated there. But he has not any track alongside his warehouse so you could run an empty car to his place of business. Therefore, you have to set a car somewhere for him to come to it and load his freight in it: Where do you put that car?

A. Put it on the delivery track in Missouri.

Q. They are near this freight house of which you speak as being east of the State line?

A. Yes, sir. It might be that he could load it on the delivery track in the State of Kansas. We have such tracks.

Q. I asked you where you would put that car for him to load.

A. That is a broad question. Because we have unloading and loading tracks that are located in Missouri and we also have loading and unloading tracks located in Kansas, in the State Line Yards. They might put it in Kansas or they might put it in Missouri. If it was more convenient in Kansas they would put it in Kansas and if it was more convenient to him they would put it in Missouri.

3709 Mr. HAGERMAN:

Q. You mean the State line goes right across the loading tracks?

A. No, sir. We have loading tracks, and part of that track is on the Kansas side. That is the present arrangement of the yards fixes the loading and delivery tracks on both sides of the State line.

Mr. LADD:

Q. His business being in Missouri and east of your yards, it would be more convenient for that shipper to have that car placed on the loading track in Missouri than it would in Kansas, wouldn't it, because he would not have to haul his freight in wagons so far?

A. And if the——

Q. Answer that question please. It would be more convenient for him and make a shorter haul for him?

A. Then we would put it on the track in Missouri.

Q. You would try to accomodate him if you could, by putting it on the Missouri track?

A. Yes, sir.

Mr. HAGERMAN:

Q. That is, you would put it wherever it was most convenient for him?

A. We would try to.

Mr. LADD:

Q. But the revenue from that freight which goes up into Lincoln, Nebraska, no part of that revenue derived by the company for the handling or transportation of that freight, is credited to the Missouri part of the earnings, as I understand it from Mr. Roth?

A. No, sir.

3710 W. C. DODDRIDGE, re-called, testified as follows:

Direct examination.

By Mr. FRANK HAGERMAN:

Q. Mr. Doddridge, when you were on the stand before there were certain papers which you were to prepare in the form of exhibits: You read from memorandums you had: Have you prepared those statements?

A. Yes, sir.

Q. Take them one at a time and explain what they are as you go along so they can be given an exhibit number.

I observed that in the exhibits which were offered in connection with your testimony, Exhibit No. 9 was supposed to be a copy of the local loading at St. Louis, from which you read results: Now that paper does not seem to have been filed. Will you now produce it and have it marked?

A. I will.

The paper referred to is marked Complainant's Exhibit 9.

Exhibit 9 is in the words and figures following, to-wit:

3711 Q. What is the next paper which you were to have copied and produce here.

A. This was a statement showing statistical comparisons, taken from the Interstate Commerce statistics, as between Group 6 and Group 8, Illinois, Iowa and Missouri.

Mr. HAGERMAN: We will offer in evidence this paper.

The paper referred to is marked Complainant's Exhibit 13, and consists of three sheets.

Exhibit 13 is in the words and figures following, to-wit:

3712 Q. What is the next statement you prepared?

A. A statement of the tonnage of State and inter-state freight carried on local trains between the points named. This is information obtained from the original way-bills in possession of the conductors in charge of the local trains.

Q. That is subject matter which has been designated by Mr. Ladd in the cross-examination of Mr. Fisher this afternoon, as the "six trains"?

A. Yes, sir.

Mr. HAGERMAN: I will offer this paper in evidence as Complainant's Exhibit 14.

Exhibit 14 is in the words and figures following, to-wit:

3713 Q. What is the next paper you have thus prepared?

A. A statement of the tonnage of State and inter-state freight carried on through trains between the points named. This is information obtained from the original way-bills in possession of conductors in charge of the through trains.

Mr. HAGERMAN: I will offer in evidence this paper as Complainant's Exhibit 15.

Complainant's Exhibit 15 is in the words and figures following, to-wit:

3714 Q. Does that complete all the statements you were asked to bring in, Mr. Doddridge?

A. Yes, sir.

The usual hour having arrived, an adjournment was taken until to-morrow, Saturday, February 2, 1907, at ten o'clock A. M.

3715 ST. LOUIS, Mo., *February* 2, 1907.

Met pursuant to adjournment as above Saturday, February 2, 1907, in the Federal Building, in the City of St. Louis, Missouri, at ten o'clock, in the fore-noon.

Present: Hon. F. L. Scofield, Special Master.

Messrs. M. L. Clardy and Frank Hagerman appeared in behalf of the Complainant.

Messrs. S. B. Ladd and John Kennish appeared in behalf of the defendants.

The following proceedings were had:

W. C. STITH, recalled, testified as follows:

Direct examination.

By Mr. HAGERMAN:

Q. Mr. Stith, something was said yesterday in the examination of some of the witnesses, as to places where tariffs are compiled, where they allow for distances less than the actual haul: as an illustration of that idea I may take Sedalia, which is upon the line of your road one hundred and eighty-eight (188) miles from St. Louis, yet your tariff allows for a haul of only one hundred and seventy-five miles (175): then take California and other places along the line. Now will you give an explanation to the Master how that is and why from a transportation stand-point it is absolutely necessary to have your tariffs in that way, or from a practical standpoint.

A. I can answer that from a traffic stand-point, and I presume that is the sort of an answer you want me to make?

Q. Yes.

A. The rate from Sedalia to St. Louis is made the same as the rate of the M. K. & T. from Sedalia to Hannibal, another

3716 Mississippi River point.

Q. That is to say the Mississippi River is the basis point now.

A. Yes sir the basing point.

The rate of the M. K. & T., as I understand it, is based on their mileage of one hundred and forty-three (143) miles, to which they add the Boonville bridge toll.

Q. And that is the equivalent of one hundred and seventy-five (175) miles?

A. I presume it results in a rate the same as the distance tariff of one hundred and seventy-five (175) miles.

I have made no detailed examination to see if that is so, but if your statement is correct that must be it.

Q. I am using that as an example, because that is one that was given.

We will go a step further now, to another example that was given. Coming this way to Sedalia you get to California.

A. Yes sir.

Q. And your tariff there is a less rate than the actual distance to St. Louis.

A. The rate from California to St. Louis is controlled by the rate that would be made from Sedalia to St. Louis, the reason for that being that the interests of the Missouri Pacific Company require that the rates shall be so fixed to prevent the extension of the territory of Sedalia, so that business might be hauled into Sedalia from a territory contiguous to both of those points and shipped out over a competing line.

3717 Furthermore the requirements of the State law is that all normal rates shall be so adjusted that the rate for the short haul within the longer haul shall not be higher than the rate of the longer haul point.

Q. So when you strike a point like Sedalia and have to take from a tariff stand-point less than the actual mileage, in dealing with the situation practically, it will have its effect upon the places between St. Louis and Sedalia.

A. The intermediate points will be affected by that situation.

Q. Is that situation peculiar to the Missouri Pacific Railroad or is it general throughout the State?

A. It is general throughout the State.

Q. Arising from the fact that the River is the *the* basing point?

A. Based upon the fact that the Mississippi River is the basing point as terminus for these Mississippi rates, and that it is the practice to adjust those rates with reference to the shortest road haul from any producing point to any Mississippi River point.

Further than that, the reason why the Hannibal distance is used as a basis for the rates from Sedalia to St. Louis is, that there is a differential adjustment as between the roads to the Mississippi River points, so that whether it be St. Louis or Hannibal or Chicago, as soon as the rate, for instance from St. Louis to Hannibal, is determined, then this differential applies automatically; and in the case of grain is three cents ($.03) per hundred. Now it is the practice of the line in fixing the rate to St. Louis from any of these producing territories, to preserve those differential market con-

3718 ditions. So that the St. Louis market will have as fair an opportunity as the Chicago market to buy the grain, or any other produce of that section, and ship it into their city.

The MASTER:

Q. What do you mean by the term "differential rate?"

A. It is the difference, for instance, between the rate to St. Louis or Hannibal, and the rate to Chicago. But instead of this being an incidental difference it is a fixed difference. It is usually the result

of conferences and compromises, and they endeavor to adjust that differential—; for instance, take grain, the volume of the grain business is ultimately marketed at the Atlantic sea-board, and they endeavor to adjust those rates so it can flow through St. Louis or Chicago or Hannibal, on approximately an even basis as to through rates; so that the delivery at the ultimate market on the Atlantic Coast would be on the same through rates via any of these different gateways.

The MASTER:

Q. Would that traffic rule among different railway companies prevail even although the law should authorize you to charge a higher rate on certain commodities than is charged now, being controlled now by the differential rates and conditions?

A. Well, the effect of the application of a law of that kind to the actual mileage of the carrier that had an opportunity of transporting the freight, might be that if they insisted upon taking the benefit of the full rate the law would give them, it would put their rails entirely out of the market for the transportation of the business.

3719 It is plain to be seen that if the Missouri Pacific insisted the rate from Sedalia on wheat being based upon their full mileage, that their rate would be higher relatively than would be the rate of the M., K. & T. and its connections to Chicago, and throw this market out of touch with that situation, and they could not compete.

Q. The wheat in the instance you give, would be diverted from St. Louis to Chicago?

A. Yes, sir. The Mississippi River point, which is the basis for that rate, which is Hannibal, does not necessarily have to be a market for the grain, because the ultimate market in that case would be Chicago.

This differential system has been so long in vogue that it is almost an unwritten law and applies universally wherever they are fixed, and automatically. As soon as they change the rate to Hannibal it changes to St. Louis and also to Chicago.

Q. So the singular effect of those conditions is, that notwithstanding the shortest line between Sedalia and St. Louis is the Missouri Pacific, yet, nevertheless, you cannot charge the full rates which might be authorized, for instance by this maximum freight rate bill under investigation, for the full mileage between those two points, for the carriage of the commodities mentioned?

A. That is the state of affairs, sir. And that is almost, I might say, universal through the State of Missouri.

3720 Cross-examination.

By Mr. S. B. LADD:

Q. Here is a man who has got some freight that he wants to ship from Sedalia to St. Louis. He doesn't want to go to Chicago and he would not go there under any circumstances. St. Louis is the

place he wants to land that freight: Why should you give him the Hannibal rate—let me ask you another question:

You speak about the Mississippi River being the basing point. That is in reference to through business which crosses the Mississippi River for the west, or the east, so as to put Chicago and St. Louis on something like an equal basis: Isn't that the idea in having all points on the Mississippi River put on an equal footing, to cover the through business?

A. To answer your first question: The man you speak of is alive to his own interests, and he is going to ship his products to the market which will pay him the best price. Now it is perfectly clear that if the markets are adjusted to a differential of three cents, the man cannot ship to St. Louis and pay the differential of five or six cents, or maybe more, and get the same price, net, for his product in the country as if he had an equalized rate to St. Louis.

In answer to the second part of your interrogatory, the universal practice, as the tariffs show, is that from the Mississippi River the short line mileage is used, whether for local business or for through business.

3721 Q. You say it is, as a matter of fact?

A. Yes, sir, it is, as a matter of fact, used.

Q. But is there any good reason for it, on purely State business? I can understand why the Mississippi River and all points on the Mississippi River should be put upon an equal footing as regards business crossing the Mississippi River either from the east or from the west: But I cannot understand why as to purely State business, within the State of Missouri, it should be.

A. The man who has the product to ship has all the market reports, and he can figure out that if he ships this to Chicago it will net him so much, and if he ships to St. Louis it will net him so much less than if he ships to Chicago.

If the state of affairs you think ought to be brought about is brought about, the business of Sedalia would go to Chicago and not come to St. Louis. Rather than have that condition exist the railroads prefer to meet the short line rate, and keep their rate to St. Louis on a par with the rate to Hannibal. Hannibal is not a grain market, but the conditions that are created through Hannibal in the rate to Chicago makes it, in fact, a controlling factor.

Q. Now take the town of Hermann: I am told that is 81 miles from St. Louis: On what basis of mileage do you transport freight between Hermann and St. Louis, State freight?

A. I presume that primarily that rate is adjusted to the mileage. Now do not understand me as saying——

Q. If you will answer my question I will be obliged to you, and if you cannot——

3722 A. I cannot without looking it up. (After examining memoranda:) I do not think I have a tariff here that shows that, Mr. Ladd. I have only the mileage tariff. I have not the terminal tariff.

Q. Suppose it to be true, is there any good reason why freight

from Hermann, a distance of 81 miles, should be charged on the basis of 50 miles?

A. Why, yes, there is, if that is the case. There is water competition at Hermann. Boats ply between Hermann and St. Louis, and it has been the practice of the railroads for a good many years to give recognition to that state of affairs, in the adjust- of their freight rates. I cannot tell without reference to the tariffs themselves whether that situation has been looked upon as controlling in making these rates. But there would certainly, in my judgment, be justification for making application of the mileage scale rates if that were done.

Q. Is there a place by the name of Bowles on your road?

A. Yes, sir.

Q. How far is it from St. Louis?

A. I will see if I can tell you from what I have here (after consulting memorandum): It is 48 miles from St. Louis.

Q. What -ompetition is there at Bowles?

A. At Bowles it would be affected by the rates that would be made for Washington. And Washington is affected by the Missouri River boat situation.

3723 Q. How far is Bowles from Washington?

A. Bowles is 7 miles from Washington.

Q. Do you know the rate you charge from Bowles to St. Louis?

A. No, sir, I do not. Our tariffs would show that, Mr. Ladd.

3724 Mr. HAGERMAN: There is one of the exhibits put in, in connection with Mr. Doddridge's testimony yesterday, which Mr. Roth says that in compiling the clerk has used the wrong figures. I do not want to stop about it now but I would like to have the corrected statement made up. Mr. Doddridge put in Exhibit 14 and Mr. Roth called my attention to the fact that there is some mistake in the compilation of the figures. I would like to have Mr. Roth take Exhibit 14 and make the corrections on the same, according to the facts.

Mr. HUBERT ROTH, re-called, testified as follows:

Direct examination.

By Mr. HAGERMAN:

Q. Will you make the proper corrections on Exhibit 14 and file it as Exhibit 14-a?

A. Yes, sir.

Mr. LADD: After that is done I want to ask Mr. Doddridge some questions about it.

3725 Mr. DODDRIDGE, re-called, testified as follows:

Direct examination.

By Mr. HAGERMAN:

Q. Have you looked into the question as to the loading of way freight at any particular point, since you were here?

A. I have requested the accounting department of the Missouri Pacific Railway to furnish a statement of the less than carload freight loaded at Sedalia and at Jefferson City.

Q. For the purpose of what?

A. For the purpose of ascertaining the amount of tonnage per car, average tonnage, at those points.

Q. With what result?

Mr. LADD: Let me understand: You say the company furnished you a statement?

A. I asked for that information from the company and I have it here in the form of a statement, for a period of time, I believe it is one month.

Mr. HAGERMAN:

Q. That is for the purpose of illustrating your testimony that you already gave, about the light loading in less than carload shipments?

A. Yes, sir.

Q. What is the result of that compilation? Have you it prepared in the form of exhibits, and what do the exhibits show?

A. This paper I have in my hand is for Jefferson City, showing merchandise loaded for St. Louis, Kansas City, and local points, during the month of December, 1906.

3725½ Q. The first column of figures on the left indicates what?

A. It indicates the number of the car and its initials.

Q. The second column would be the initial?

A. Yes, sir.

Q. And the third column indicates what?

A. It shows the number of pounds loaded in each car.

Q. What is the ordinary capacity of the car?

A. The statement of course does not show the capacity of the car; but the capacity would run from 20 to 30 tons, probably.

—. And this third column is in pounds?

A. The third column is in pounds, showing the amount loaded.

Q. Take for instance the fourth item, car No. 34,077, M. P. 110, Coal Junction to Lexington: What does that indicate?

A. It shows there was loaded into Missouri Pacific car No. 34,077, 110 pounds for points between Coal Junction and Lexington.

Q. That is to say, the train started out with that car and there was loaded into it only 110 pounds?

A. Yes, sir, 110 pounds.

Q. And that is an illustration of the entire statement?

A. Yes, sir, that is the character and purpose of the statement.

Mr. HAGERMAN: I will offer that in evidence and ask that
3726 it be marked Complainant's Exhibit 16.

The paper marked Complainant's Exhibit 16 is in the words and figures following, to-wit:

3727 Q. What is the next one?

A. The statement which I hold in my hand is similar to the one prepared at Jefferson City, this one being made by the agent of the Missouri Pacific Railroad Company at Sedalia.

Q. And what you have said as to the other statement applies to

this one, except this — a statement from the station at Sedalia while the other one is from Jefferson City?

A. Yes, sir.

Mr. HAGERMAN: I will offer in evidence this statement and ask that it be marked Complainant's Exhibit 17.

The paper marked Complainant's Exhibit 17 is in the words and figures following, to-wit:

3728 Q. Did you, at my request, after you were on the stand here before, go over the terminals at Kansas City and the terminal stations there so as to familiarize yourself with it a little more?

A. Yes, sir. During the adjournment of the Court I went to Kansas City and made it a point to go through what is known as the "State Line Yards" to refresh my memory as to the location of things and the methods of handling the business, with a view to making a further statement in connection with the testimony which I had already given in that line.

Q. Mr. Doddridge, how did those terminals grow up? When the Missouri Pacific was first constructed into Kansas City, where were the terminals?

A. The original terminal of the Missouri Pacific at Kansas City, as I understand it, was at the foot of Grand Avenue, or in that neighborhood. But with the development of the business, construction of the Missouri Pacific Railway, it became necessary to connect the Missouri Pacific Road with that line, and to build a yard for handling its business. Hence the construction or development of what is known as the State Line Yards.

This yard, for a good many years, was the only working yard of the Missouri Pacific Railway. A local freight depot was built there subsequently to the building of the local freight depot at the foot of Grand Avenue. And afterwards the Missouri Pacific Road acquired what is known as the Missouri River line to the north,

3729 leading in the direction of Atchison, Omaha, and so forth. Those roads in the early days were independent lines.

Q. Now, then, how are the State Line Yards there constructed, as to the necessity in the practical operation of the road, of the constant crossing backward and forward across that State line?

A. The State line crosses the State Line Yards at a point about ¾ of the distance between its extreme ends.

Q. That is to say, the State line cuts off, practically leaving ¼ in Kansas and ¾ in Missouri?

A. I should say it would be in about that proportion in area.

Q. I do not mean tracks. But along the line of His Honor's question yesterday: If you would put it in acres, that would be about the result of it?

A. Yes, sir, that would be the result. I heard the statement of a witness yesterday, that there was about 15 acres in the State Line Yards, but my judgment is it is a good many more acres than that, taking it all into consideration The west end of the State Line Yards crosses the Kaw River, which is in the State of Kansas, and

which crosses all of the tracks of the State Line Yards, come together in a funnel or throw.

Q. Leading right into the bridge?

A. Yes, sir, leading to this bridge. And this bridge to-day is a double track bridge, built to facilitate the switching operations of this yard. When a train arrives at Kansas City from the north or west, and is pulled up into the State Line Yards, the engine of that train as a rule stands east of the State line, perhaps one-half a train length, is east of the State line. In fact, it is necessary to cross the State line to work the yard, the yard consisting of a great number of parallel tracks.

3730

The MASTER:

Q. And the general direction of those parallel tracks, as I understand, is east and west?

A. Practically so, east and west. The direction of the State line is north and south, perhaps a slight variation in angle from that.

Mr. HAGERMAN:

Q. But it runs northerly and southerly?

A. Yes, sir, northerly and southerly. The teaming tracks of this yard, the bulk of them are in Missouri. Some of them are on the Kansas side of the line. Of course these team tracks are located where they are easy of access, from the paved streets, as this is a muddy bottom in wet weather.

The stock yards is located south of the State Line Yards, in its great bulk, along the Kaw River, and mainly in Kansas. In order to facilitate the business of the Missouri Pacific Railroad, the Stockyards Company, about ten years ago, built an enlargement of the stockyards, on the north side of the Missouri Pacific State Line Yards, in Kansas, upon which they could get unloading tracks connected with the State Line Yards. In order to connect this part of the stockyards with the main part of the stockyards, they built a subway under the tracks of the Missouri Pacific Railway and the Union Pacific Railroad and also built overhead bridges.

3731

Q. You do not mean that subway and overhead bridges have on them or running across them tracks for railroad cars; but a subway or overhead bridge through which or over which cattle are driven to and from the place of loading or unloading?

A. Yes, sir, on their own feet. I was simply describing the situation so it would be understood.

The MASTER:

Q. Do I understand that this addition made to the stockyards lies north of the Missouri Pacific Railroad yard or south of it?

A. North of it. The stockyards are on both sides of it.

Mr. HAGERMAN:

Q. There is a portion of the stockyards north.

The MASTER: Then the addition would lie between?

A. The facts are, these railroad tracks really cut the stockyards in two?

Mr. HAGERMAN:

Q. Go ahead Mr. Doddridge.

A. I was going to say that these facilities were put in there for the purpose of facilitating the handling the livestock and the further fact that all of the livestock arriving at Kansas City, practically first goes into the State Line Yards, where the train is broken
3732 up, if it comes from the north. And these cars are handled to these unloading tracks whether they be in Kansas City or anywhere else, by switching engines.

Trains arriving and departing, from the east, on the main lines of the Missouri Pacific, or from the west, are made up and distributed from a new yard which they have recently built in the East Bottoms, located four or five miles from the State Line Yards, and from that point freight is distributed throughout the Kansas City terminals by switching service; these East Bottom Yards being made necessary by the growth of business and the lack of room at the State Line.

Q. Now have you given a general description to answer specifically the question I put, whether in the practical operation of the railroad there would be any way of conducting that business without crossing and recrossing in the movement of your trains, that State line constantly?

A. There is no way to transact the business at Kansas City, without constantly crossing the State Line, with their present facilities and under the present arrangement.

Q. That yard as it is now there?

A. And the yard as it is now located.

Q. And that is a matter of hourly or almost momentary action, crossing that State line, day and night?

A. It is almost constant.

Q. Dealing from an accounting standpoint with this terminal expense at Kansas City, this seems to be the method as I gather from the witness, Mr. Doddridge: That all the terminal ex-
3733 pense is charged to Missouri, all the terminal earnings are credited to Missouri, in each of these cases, except the Wyandotte and Northwestern: And then the Company treats the shipments to and from the State Line Yards, to the north and northwest, as Kansas City business as distinguished from Missouri business. And the freight going the other way as Missouri business as contra-distinguished from Kansas business: How long, if you know, has that system of equalization or squaring off the thing, been in force there?

A. My impression is that the accounts of the Kansas City station have always been kept in that way.

Q. That is, it is nothing new, for the purposes of this case, or involved in this law in any way.

A. No, sir.

Q. I believe some witness said that up to a certain time, instead of its being carried in the account for Kansas City expense, it went to Missouri, to a division?

A. Yes, sir, in division for——

I will make this statement in connection with the matter: Some

five or six years ago a new system of keeping railroad operating accounts was introduced into this part of the country, known as the Hill system of keeping track of train expenses, for the purpose of economical operation. By that system railroads were divided into what was known as "accounting divisions" corresponding as nearly as possible with the territory controlled by a superintendent. And a set of statistical figures is compiled each month, showing
3734 all of the costs of the different items that go to make up the expenses of operating the railroad.

These statements are printed—you had one here yesterday—and by those statements an administrative officer of a railroad can determine any increase or decrease in his expenses; or, rather, locate any change that may take place from time to time, and correct it.

Whatever change has been made in this method or system of accounting, at Kansas City, has been brought about by that reason, and that reason only.

The Kansas City District or terminals is now under the jurisdiction of a superintendent, who is responsible for all the expenses within his territory.

Q. That is to say, that practically becomes a division?

A. Practically a division.

Q. By putting it in charge of some particular man, who is responsible for the results?

A. Yes, sir, and in order to let him know what he is doing, and how his expenses are running, which I will say on a railroad are continuously changing, day to day, month to month, and hour to hour, on account of the changes of condition, the conditions of the business. The flow of business affects the expenses. The tonnage carried on a railroad may be the same figure one month with another, and it will cost a different price to do the work.

Q. The sum and substance of it is that the Kansas City Terminal proposition got to be a pretty big matter, and it was put under
3735 the jurisdiction of a superintendent, and treated practically as a separate department or division: That would be the effect there.

The MASTER: I think it is also, according to Mr. Johnson's testimony, an accounting division.

Mr. HAGERMAN: Calling the Kansas City terminals a separate division, results in making it an accounting division?

A. Yes, sir, not only that, but in addition to that, the large terminals as applied to railroads to-day, is a special line of business. It requires a man usually of special qualifications, to handle these large terminals. Where there are a great number of yard men employed, a large number of switch engines, they are a class by themselves.

I have known a great many railroad superintendents who were good, capable men, to handle trains on the line, that would make an utter failure in attempting to manage a large yard. Therefore, railroad companies, where they have these large yards, have a special organization to manage them. That is true in Kansas City.

Q. Would it be practicable to divide the expenses of the Kansas City terminals upon a wheelage basis and if not why?

Mr. LADD: What is a wheelage basis?

Mr. HAGERMAN: That is in accordance with the use. It is a terminal proposition, and the property is used by the trains and engines.

Mr. LADD: That is a new expression in this case to me.

3736 Mr. HAGERMAN: You understand what the word wheelage means in railroad parlance?

A. I think I do. I will state that a division on a wheelage basis might be made more clear by expressing it as on a car basis. That would be the number of cars handled, in and out, in the various directions, and taking that as a unit of measurement, percentages might be established that would represent the various volumes of business. Frequently the expenses of union depots are divided in that way.

Q. Would that be practicable with the crossing of this State line as often as it is done?

A. I think it would be utterly impracticable as far as the State line is concerned between Missouri and Kansas, as cars might cross a great multiplicity of times, in switching I do not think that would be practical, that way of getting at it.

In fact I don't know of any way to get at the fair percentage or fair basis, other than by some system of measurement of the tonnage actually handled.

Q. That is to say, take the tonnage of the business as between the two states.

A. As between the two states, yes, sir.

Mr. LADD:

Q. What do you mean by the two states, Kansas City, Missouri, and Kansas City, Kansas?

A. Yes, sir.

Q. You mean the tonnage furnished by those two cities?

A. Well, no, I don't exactly mean that, because a great
3737 deal of the tonnage that is furnished in Kansas, or just across the line in Kansas, really would belong to Missouri's local business.

Mr. HAGERMAN:

Q. What you mean to say, is, if you could separate practically, so as to ascertain what the tonnage was that properly belonged to Kansas City, Kansas, and what properly belonged to Kansas City, Missouri, that in your judgment would be a fair way to divide the expenses of that State line yard?

A. I presume that would be a fair way to get at it.

Q. But do you think that is practicable in the face of the situation and the doubt there is as to what is Kansas City, Kansas, business and what is Kansas City, Missouri, business?

A. In order to make up such a figure it would be necessary to determine exactly what belonged to Kansas City, Kansas, and what belonged to Kansas City, Missouri. I do not see any way in which

that could be done. As I view it, it is a technical point, and a distinction without very much difference.

Q. What would you say about the track mileage basis, whether that would be practicable or fair?

A. That would not be fair, for the reason that the track mileage that is located in Kansas on the west side of the Kaw River, is simply a holding yard. It is not a yard where trains are made up or broken up. It is not a yard that is used in the actual conduct of the
3738 business of the Kansas City station, except for those purposes. In other words, that yard was built as a matter of convenience. It is an overflow yard.

Q. Go up to Minnesota Avenue: That would represent simply an infinitesimal part of the business?

A. A very small part of the business, because the Minnesota Avenue facilities are strictly local in their character. The depot was established there when that line was an independent railroad. When it was a road, as I remember it, designed and built between what was then known as Wyandotte and Leavenworth. The depot there was a local depot. It connected at that point, at that time, with the Union Pacific, opposite to the Missouri Pacific, and the depot has been maintained since as a matter of accom-odation, for a few local industries such as a coal yard and I think there is an elevator; and there is a small mill there. The track occupies a street.

My recollection is the ordinance requires the maintenance of the depot there, in consequence of the occupation of that street, and it really does not have any important significance in this connection with the Kansas City terminals.

The track from Minnesota Avenue to the nearest point where the Missouri Pacific Railway crosses the Kaw River, actually belongs to the Union Pacific Railroad to-day. The Missouri Pacific Railway is occupying that track under a lease.

Q. Does the fact of the State line running through, from an operating standpoint, cut any figure at all in the railroad?

3739 A. It cuts absolutely no figure. Until it became necessary for the railroad companies to make reports to the Interstate Commerce Commission, on certain prescribed forms, and to the States of Kansas and Missouri, the State line was not considered in the operation of the railroad.

Q. That is what I am getting at. From an operating standpoint alone, it would not make any difference where the State line was, but these other factors coming in, does make the State line an element in the situation?

A. Yes, sir, an element in the matter of getting records.

Q. I assume from what you said that after all the tariff, if any, of that terminal expense that ought to be assigned to Kansas, is an arbitrary sum, fixed upon somewhat arbitrarily, but generally a just estimate?

A. In my judgment that would be the only way to provide for it.

Q. The railroad company itself seems to take a sort of average of the situation, as I say, of charging that terminal expense and taking credit for all the terminal earnings, to Missouri?

Objected to as leading.

Mr. HAGERMAN: I have not finished.

Q. And crediting the shipments from the State Line Station to the north and northwest as Kansas shipments; and in the other directions as Missouri shipments: Now have you gone into
3740 the subject enough to know whether in a general way compensating features going to Kansas, as between the two States would so offset each other that that would or would not be a fair way to deal with it.

A. Of course I will say this: That I have not sufficient date or sufficient information, technical information, to make a positive statement on that point, more than to say this: That the accounting offices of the Missouri Pacific having always treated the division of the Kansas City situation in that way, I will say that it is probably pretty nearly right. There being no object that I can see why they should handle it on any basis but a correct theory.

Q. But you have not gone into the details so as to have your own independent judgment as to whether the compensation as between the two States is sufficient to make that practically right?

A. Of course that is the idea I meant to convey, but I will say this: That considering the matter on the ground, and in consideration of the former opinion which I had, and which I testified to off-hand, I think I am now of the opinion that in no case is that opinion very much out of the way.

Q. I will come to that in another question, the opinion you expressed the other day. I wanted to ask you about the other thing, whether you had figures and facts enough to go into to show the amount of business, for instance, that went out to the north and northwest, that Kansas got as its own, as compared with other business. As I understand you, you have not the details about that?

3741 A. No sir.

Q. Irrespective of any consideration or compensation offsetting each other, or averaging up the situation, but simply as an abstract terminal proposition as dividing those terminals as between the two States, you expressed an opinion that varied, running from a minimum of 10 per cent to be assigned to Kansas, to a maximum of 25 per cent, as you say, and expressed it at the time, as an off-hand opinion.

Have you since that time gone into this terminal question *for* form- a more detailed and accurate judgment upon that theory?

A. Yes, sir, I am willing to say now that I believe 10 per cent is all that should be allowed.

Q. That is after going back and looking over the situation at Kansas City?

A. Yes, sir, after going back and looking over the situation at Kansas City, I am willing to state that 10 per cent is all that should be assigned to the Kansas side of the terminals.

Q. Could you give some idea of your reasons why you think that is so?

A. Well, in the first place, the Missouri Pacific has but one line leading into those terminals, that runs directly into the State of Kansas. That is the line in the direction of Omaha—that goes to Omaha. The Omaha line is a local proposition, being a local railroad. It brings to Kansas City a great deal of grain and
3742 livestock and it distributes from Kansas City merchandise and supplies that go into an agricultural country. The passenger train service on that line is comparatively very light.

All the balance of the Missouri Pacific Lines' business, tonnage, goes in and out of the Kansas City Station through the State of Missouri. Its great business is between Kansas City and St. Louis. In serving the local industries and local business of Kansas City proper, while it is true that the packing houses are located across the line, along the banks of the Kaw River, on one side or the other, I would consider all of that business was local to Missouri, from a railroad standpoint, or a transportation standpoint.

Mr. LADD: Of what business?

A. All industrial business located on the Kaw River, that comes to and from the State Line Yards, is local business.

Q. Local to Missouri you said?

A. Yes, sir.

Q. No matter on which side of the line it is situated?

A. I am trying to make that clear. I want to give my reasons for taking that view. Technically I know, as I have said once or twice, it is a distinction without much difference—that is, the State line feature of it.

This freight that is handled in the State Line Yards, and in the State Line Depot, is billed in and out from Kansas City, Missouri, and on the basis of Kansas City, Missouri, rates of transportation.
There is no allowance made for carrying this business any
3743 further than Kansas City, Missouri. Kansas City, Missouri, practically would end, so far as its destination is concerned, at the so-called East Bottoms Yards, five miles from the State line in the State of Missouri. From a transportation standpoint it has arrived at Kansas City when it reaches those yards. After that it is a terminal switching proposition. Trains from the west arrive at Kansas City when they reach the State Line Yards and stand practically on the State line, with the engine on one side and the caboose and the train on the other.

I think that was a mere accident of construction. I do not think when they built that yard that they had any idea of putting it in both States.

Mr. CLARDY:

Q. All the traffic you say is billed to Kansas City, Missouri, that goes into the yards, and from Kansas City, Missouri?

A. Yes, sir.

Q. How old are those yards?

A. The State Line Yard was built partly and used as such in the 80's, before I came into the country. I don't know how many years earlier than that.

Q. Do I understand you to say, Mr. Doddridge, that independently of the connection of the company, that you have an opinion or have expressed an opinion, as to the percentum that should be allotted to Kansas?

A. Yes, sir, I have stated that in my judgment 10 per cent would be a fair allowance. And I make that statement with the qualification that I have not any figure or data, only my general observation and experience in the operation of those terminals.

3744 Mr. HAGERMAN:

Q. And the fact of which you have already spoken, that it would have to be some arbitrary sum, because of the peculiar situation there, there being no fixed rules upon which you could base it?

A. Yes, sir.

Mr. LADD: I do not care to ask Mr. Doddridge any questions about these terminals until we get the map here.

Mr. HAGERMAN: Let us say, then, we will not put in a map at present. I am not going to keep the place open to cross-examination upon that ground. I am not going to get a map simply for the purpose of keeping the place open or postponing Mr. Doddridge's cross-examination.

Mr. CLARDY: Has a map been asked for?

Mr. LADD: I asked for it and the Master asked for it.

The MASTER: The suggestion was made by the Master, that I thought it would aid very much if the engineer of the Missouri Pacific Railroad Company could prepare a diagram illustrating the chief features of the Kansas City terminals, and I understand that can be done.

Mr. HAGERMAN: There is no objection to doing that but I say that is not a part of Mr. Doddridge's examination. He has not been examined upon any map.

Cross-examination.

By Mr. S. B. LADD:

Q. Would you mind looking at Exhibit 9, which was put
3745 in evidence yesterday?

A. I have it.

Q. Referring to Exhibit 9, Mr. Doddridge, will you bring in here, or have brought in, sheets like Exhibit 9, showing the merchandise loaded at St. Louis on December 15, 17, and 20, 1906, being Form No. 3092?

A. Yes, sir.

Mr. LADD: I will explain to you, Mr. Hagerman, that these are the dates to which Exhibits 14 and 15 refer, and I understand that sheets like these are in the office for every day.

Q. Look at Exhibit 15, if you please, which is a statement of tonnage of certain through trains, containing inter-state and State freight on certain days, and which has already been offered in evidence:

I will ask you in respect of train No. 51, which appears here, do you know whether there was more than one section on that day, December 20th, on train No. 51.

A. No, sir, I do not know. I will state in connection with that exhibit, that I understand that each train represented there is a separate train, so far as the sections are concerned. There is no consolidation of the tonnage of two or three sections into one train. I do not understand that statement to be made up on that theory.

Q. I did not know how that was. I know some times you have a train bearing a certain number, and there will be two sections of that train, and they will both be called No. 51?

3746 A. Yes, sir, there might be fifty sections of a train, of one number. But for this purpose we would use only one section, in arriving at the tonnage.

Q. One section?

A. We would consider it only as one section. Of course that statement is not made to cover more than one section of the same train.

Q. For instance, if there were two sections of train No. 51 on that day, does this report here cover both those sections, or would it cover one, do you know?

A. As I do not know as a matter of fact, but I will say that my understanding of this statement is that it deals with only one section of one train.

Q. Will you please ascertain as regards train No. 51 on December 20, 1906, if there was more than one section of that train? Whether there was more than one of train No. 54 on December 21st. And the same information respecting trains No. 56 on December 18th; No. 55 on December 20th; No. 56 on December 20th; No. 64 on December 14; No. 73 on December 15; No. 73 on December 20th?

A. Yes, sir.

Q. And also please ascertain if there was more than one section of any one of those trains, and you did not take all of the sections, which section you did take?

A. Yes, sir.

Q. You testified before that you had Red Ball trains and Green Ball trains, both of them as I understood being through trains, and then another class of through trains: Is that right? Perhaps you called them ordinary trains.

3747 A. As I recollect my testimony, I dealt with Red Ball and Green Ball trains. In Mr. Clark's testimony he dealt with another class of trains which was called ordinary through trains.

Q. Perhaps it was Mr. Clark. I know you told us about Red Ball and Green Ball trains.

A. Yes, sir, I will say this: That I was not aware of the fact that they operated four classes of trains on the Missouri Pacific, at this time. It being a new thing.

Q. What class did train No. 51 belong to, which you did have examined into?

A. (After consulting time-card.) It is time-carded as Colorado Red Ball Freight.

Q. Take No. 55.

A. No. 55 is called Omaha Red Ball.

Q. And No. 73.

A. Kansas City and St. Joe Red Ball.

Q. Is there a train there called No. 77 on that schedule you have before you?

A. Yes, sir.

Q. What is that?

A. The Joplin Division Red Ball.

Q. Is that a through train?

A. Yes, sir.

Q. You did not investigate that at all, did you?

A. I notice it appeared in this statement, in the exhibits.

3748 Q. Then No. 51 designated in the official time-table of the Missouri Pacific, is — as Colorado Red Ball: Does that run through from St. Louis to Pueblo, Colorado?

A. I should so understand it. This time-table was the working time-table for the districts, St. Louis to Jefferson City only. You would have to follow it through to ascertain where No. 51 runs to. (Examining time table.) That is the through train to Kansas City.

Q. This is not a through time-table?

A. No, sir.

Q. Are you able to say whether this Colorado Red Ball train runs through to Colorado?

A. I should judge so but I cannot state it positively.

Q. What is that train constituted for, principally?

A. To handle Colorado through freight.

Q. If that is the case, Mr. Doddridge, you would not expect to find any State freight to speak of on that train, would you?

A. It would depend entirely on whether they had sufficient through tonnage of Colorado freight to fill the train out. As I understand that time-card, all the Colorado freight they would have on hand at St. Louis would go out on that No. of train from St. Louis, Mo.

Q. According to this statement, you did not find any State freight on that Colorado Red Ball train No. 51 at all?

A. There should not be there, not if they had sufficient tonnage to fill it out.

3749 Q. That is intended for Colorado business?

A. That is intended to carry Colorado business. It makes a through line to Kansas City, to which the time-cards of the western divisions are fitted.

Q. You examined into train No. 55 on December 20th, 1903: What is the designation of No. 55 on that schedule?

A. Train No. 55 is classed as Omaha Red Ball train.

Q. What is that train segregated for?

A. To carry through freight to I should judge Omaha and possibly other Nebraska points, between Kansas City and Omaha. But it is a through train.

Q. You would not expect to find much if any State freight on that train anyhow, if it is organized for Omaha and Nebraska business: Is that right?

A. That is right provided there is sufficient business of that kind to fill out the tonnage.

Q. I do not see anything on this schedule which you have been looking at, headed "Green Ball": Which of those trains would be what you called the other day "Green Ball train"?

A. (After examining time-card.) There are no Green Ball freights scheduled out of St. Louis.

Q. Are there any trains mentioned in that schedule, trains that you referred to the other day as Green Ball?

Mr. HAGERMAN: Wouldn't they be what we call "ordinary trains"?

Mr. LADD:

Q. I am asking you if any of those trains are what you
3750 called the other day Green Ball freight?

A. The Green Ball freight, I should judge, in the absence of any other train so specified, would be carried west-bound on train No. 71, which is called "district freight", and on train No. 82 and 84 east-bound, both designated as "ordinary freight".

The term Green Ball, as I understand it, does not mean anything except that it is not high class freight.

The term Red Ball refers to certain designated articles of merchandise or high class freight.

The distinction simply means that one is given preference in its dispatch over the other. If freight is delayed, or it is necessary in the operation of the railroads to leave any freight over or delay it, the Red Ball freight comes first and the Green Ball freight second.

Q. I understood that the other day. On that schedule there are some trains called Red Ball trains, but according to that there are no trains that go by the name of Green Ball trains, although they might carry Green Ball freight?

A. They might carry Green Ball freight on Red Ball trains.

Q. You said they do, if they do not have enough Red Ball, they would fill out with Green Ball freight?

A. Yes, sir.

Q. In other words, the Green Ball freight would be carried on those other trains: Is that the idea?

A. Yes, sir.

Q. Here is a daily through train, No. 77, Joplin Division, Red Ball?

3751 A. Yes, sir.

Q. You did not examine into that, did you?

A. Into that statement?

Q. Yes.

A. If it does not appear on the statement it was not examined.

Q. Why was not that examined?

A. I do not know why it was not examined, as this examination was not made exactly under my direction.

Q. You do not know?

A. No, sir, I do not know why.
Q. It was not examined?
A. It was not because it does not appear in the exhibit.
Q. I will ask you if you would not expect to find carried on this Joplin Division Red Ball through train No. 77 a much larger proportion of State Freight than you would on the Omaha Red Ball No. 55, which does the Nebraska business, and on Colorado Red Ball No. 51, which does the Colorado business?
A. Yes, sir.

At this point recess was taken until two o'clock.

3752 After recess on Saturday, February 2, 1907, the following proceedings were had:

The WITNESS: Mr. Ladd asked me to ascertain if there was more than one section run in certain trains of which he gave me the numbers in his question, and the answer is from the information which I have obtained since this morning, that there was but one section in each of the trains named. (Referring to Exhibit 15.)

Mr. LADD:

Q. Do you mean to say by that, that Exhibit 15 only refers to one section of each train, or that there was, as a matter of fact, only one section to each of those trains those days?
A. I understand there was but one section of each of those trains on those days.
Q. Have you the sheets corresponding to Exhibit 9, showing merchandise loaded at St. Louis December 15th, 18th and 20th, 1906, that I asked you to get this morning?
A. I have made the request to have the statement prepared, but have not as yet received them.
Q. We have asked Mr. Roth for them and he says to ask you.
A. I take it he hasn't them.

Mr. HAGERMAN: I suppose all Mr. Roth means is that Mr. Doddridge will have to give directions to have the copies prepared. Mr. Roth has not them.

Mr. LADD: We don't care for the copies. We will have those eventually, I suppose.

3753 A. Yes, sir.

Mr. LADD:

Q. Mr. Doddridge, trains coming from the Omaha and Lincoln end of the Missouri Pacific Railroad, and from the Central Branch, come down from the north and run through these yards in a general southerly direction until they get to about a point in the neighborhood of the round-house, and then turn east, don't they?
A. Yes, sir, except that there are no trains from the Central Branch that run to Kansas City at all. The Central Branch terminates at Atchison.
Q. The business taken off the Central Branch from Atchison?
A. Yes, sir, it passes as indicated by you.

Q. Through the Cypress Yards?

A. Yes, sir.

Q. And runs in a general southerly direction down the Missouri River until they get to the neighborhood of what is shown on the map as the round-house, and then turns east?

A. Yes, sir, toward the east and terminates in the State Line Yards.. And trains from the East terminate in what they *terminate* their East Bottom Yards.

Q. Way down east of town?

A. Yes, sir, three or four miles east of the State Line.

Q. These trains that come from the east destined for Kansas City, Missouri, proper, I understood you to say were terminated at the terminals in the East Bottoms and then conveyed by the
3754 switch engine up to the State Line Yards: Is that right?

A. That is correct, yes, sir.

Q. Now all of the freight which has its point of origin at Kansas City, destined for points on the Central Branch or on the Omaha and Lincoln line, has the use of these terminals, doesn't it, these State line terminals?

A. Yes, sir.

Q. Suppose a merchant in Kansas City wants to ship a carload of freight, such freight as he has to load himself into a car we will say, to Pueblo, Colorado, where will he find his car?

A. If it is a merchant who has no track——

Q. Exactly, a merchant who has no siding of his own.

A. His car would be found on a teaming track, what is known as a public loading track, in the State Line Yards. A car would be placed there for him.

Q. What course would a train in which that car is eventually placed, go in order to reach Pueblo?

A. A car loaded on the team track, when it is ready to move, would be taken up by a switch engine from the team track to the East Bottoms Yards, and there placed in its proper train and from there it would move out by way of the Southwest Junction through Centropolis, Leads, etc., in the direction of Ossawatamie.

Q. And from the Kansas City Southwestern Junction, is that the place where it would leave the main line?

A. Yes, sir.

3755 Q. And from there it would run 27 miles to Martin City or near there, where it would cross the line into Kansas?

A. Yes, sir, where it crosses the line back into Kansas.

Q. Mr. Doddridge, through freight from St. Louis to Omaha or St. Louis to Lincoln or St. Louis to Pueblo or St. Louis to Kiowa or Larned, Kansas, or Selina, Kansas, all gets the benefit of those terminals at Kansas City, doesn't it?

A. In a certain sense, yes. They pass through Kansas City and it is the end of the division. Engines and cabooses are changed, and in that sense of course they get the benefit of the Kansas City terminals.

Q. All that is done in those terminals, that is the service you speak of?

A. Yes, sir, the service I speak of is done in those terminals.
Q. Are the cars examined to see if they are in order?
A. They should be inspected I should say at Kansas City. I presume they do.
Q. To see if the wheels or gearing about the trucks needs oiling?
A. General inspection and oiling.
Q. And if such repairs as can be done in a very short time is necessary, it would be done in those terminals?
A. Yes, sir, they would be made there.
Q. Before that train is allowed to go on?
3756 A. That is to say, before the car would be allowed to go out.
Q. That is true of all freight for all points in Nebraska from points east of Kansas City, going over that road, isn't it?
A. Yes, sir.
Q. That is also true, isn't it, of all the freight coming from St. Louis or east of St. Louis or any point on your line east of Kansas City, destined to Colorado points?
A. Yes, sir.
Q. And Kansas points?
A. Yes, sir.
Q. They all pass through those terminals and receive such attention, change of crews, change of engines, oiling and inspection of cars, and such little repairs as may be practical in those terminals?
A. Yes, sir, so far as may be necessary.
Speaking of the use of the Kansas City terminals for such purposes, of course it is understood that they use such part of the terminals as is required for doing that specific work in its proper locality.
Now a train coming from St. Louis, we will say, to Pueblo would not use any part of the Kansas City terminals except the East Yards.
Q. Those East Yards, down east of the City, are part of the terminals, aren't they?
A. Yes, sir, but I wanted to make it clear.
3757 Q. Those would not have to come up to the State Line Y ?
A. They would not have to use the whole 12 miles of Kansas City terminals.
Q. That part of the freight would not come up to the State Line Yards?
A. No, sir.
Q. All that service I have spoken of would be performed down at the East Yards or down at the Southwest Junction?
A. Yes, sir, that is right.
Q. Those terminals, then, are not constructed and maintained by any means exclusively for the use of business terminating or originating at Kansas City are they?
A. No, sir, they are not strictly speaking local terminals.
Q. All the business of the company which passes through Kansas City and in which Kansas City has not any interest at all, has more or less use of those terminals: That is true, isn't it?
A. Yes, sir, that is true.

Q. Would there sometimes, Mr. Doddridge, by shipments from that part of Nebraska and further than Kansas City, which is reached by your line or the Central Branch which is a line in connection with it, or the Kansas City and Northwestern, which I believe is part of the Missouri Pacific Railroad now, to points in Southern Kansas or Southeastern Kansas or Southwestern Kansas, or Colorado and vice versa?

3758 A. I am not quite clear as to the question.

Q. Let me put it over. Perhaps I have not put it very well. I will ask you if there are not shipments of freight from that part of Nebraska and further than Kansas City, used by your line and the Central Branch, destined for points in Southern and Southwestern Kansas and Colorado?

A. I presume there are shipments that pass through but I cannot conceive that there is very much of that kind of business, Mr. Ladd.

Q. Would there be any shipments in the other direction, north, to Omaha?

A. Not a great deal.

Q. Now, Mr. Doddridge, I did not ask you the question because I know nothing about it, but are not considerable quantities of coal shipped from Southeastern Kansas to Omaha?

A. As to the present time I do not know much about the movement of coal. There was a time that there was a great deal of coal shipped from Missouri.

Q. I am talking about Southeastern Kansas: What are called the Cherokee and Pittsfield fields?

A. I think there is considerable coal moved there.

Q. There is no coal for Omaha?

A. No, sir. The nearest point is Iowa, half way across the State.

Q. Isn't it a fact there are large shipments of coal up to Omaha?

A. There used to be large shipments from Rich Hill.

3759 Q. And Macon County. Your line does not run through there?

A. No, sir. The movement of coal as it appertains to-day, I do not know. I understand the Rich Hill coals have been practically exhausted, and it may be possible that Southeastern Kansas coal fields have been exhausted.

Q. I wanted to ask you particularly about Southeastern Kansas coal fields?

A. I do not know about that.

Q. If there were any such shipments they would have the use of those terminals?

A. They would pass through, yes, sir.

Q. Mr. Doddridge, would you please look at this map (indicating): There is a platform shown there. What is that? It is just a little west of the State line in your terminal yards?

A. I am not sure what it is used for but my impression it is for handling machinery. There is a track there and so forth.

Q. What is that? (indicating.)

A. That is marked "freight depot" and I take it it is the original

depot built by the Kansas City Northwestern Railway when it was an independent line, before it was acquired by the Missouri Pacific.

Q. That is a little west of the State line?

A. Yes, sir, that is in Kansas.

Mr. HAGERMAN:

3760 Q. That is the Woods Street Station you are talking about now?

A. Yes, sir.

Q. That is the Wyandotte and Northwestern?

A. Yes, sir.

Mr. LADD:

Q. Is that used for anything now?

A. I do not know.

Mr. HAGERMAN:

Q. That is used only for freight trains?

Mr. LADD: What use is made of that depot for freight trains?

A. It was originally built — freight depot for that road, but what it is used for now I don't know.

Q. It is used for freight train purposes?

A. Yes, sir, freight train purposes.

Q. That lies about two blocks west of the State Line, doesn't it?

A. Just about, nearly two blocks.

Q. Two city blocks?

A. Yes, sir.

Mr. HAGERMAN:

Q. That station they spoke of, the Wyandotte and Northwestern, that is a freight yard of that road which is used in conjunction with the Chicago & Great Western Railway which uses its track?

A. Yes, sir, that is correct.

Mr. LADD:

Q. Hasn't the Kansas City Northwestern been absorbed by the Missouri Pacific?

3761 Mr. HAGERMAN: It is a Missouri Pacific line, but is operated in its own name. It is a separate corporation.

Mr. LADD: Isn't it a part of the system?

Mr. HAGERMAN: Mr. Johnson says it is regarded as part of the Missouri Pacific but treated as a separate operating division.

Mr. LADD: I had it in mind it was part of what is known as the Missouri Pacific System as much as the road to Joplin.

Mr. HAGERMAN: The expenses of that line are not charged in this statement.

Mr. LADD:

Q. Isn't that part of the terminals here?

A. I do not understand it is. If it is run as a separate accounting division it is not charged in the Kansas City terminals.

Mr. HAGERMAN: That is what Mr. Johnson says. I suppose it was run as a separate corporation.

The MASTER: If you wish you may ask Mr. Johnson the question now.

3762 F. P. JOHNSON, re-called, testified as follows:

Recross-examination.

By Mr. LADD:

Q. You show here a freight depot on this map that I have just asked Mr. Doddridge about?

A. Yes, sir.

Q. Is the expense of that freight depot in the Accounting Division which includes the Kansas City terminals?

A. Not if that freight depot is the Kansas City Southwestern depot, it would not be included in the Kansas City terminals.

Q. Then you don't know whether it is or not?

A. I don't know whether that is the Kansas City Northwestern Depit.

The MASTER:

Q. But the Kansas City Northwestern depot is not included in the Accounting Division known as the Kansas City terminals?

A. No, sir. If the Kansas City terminal division superintendent would incur an expense for the Kansas City Northwestern, he would bill against that division for it.

Mr. HAGERMAN:

Q. Mr. Doddridge says that is one of the compensations; that Kansas gets all the benefit of that.

A. I would state that the Chicago & Great Western have a trackage right or lease to run their trains from Leavenworth,
3763 Kansas, to Kansas City, and the use of the Kansas City and Northwestern Railroad, and they pay their proportion of the expenses of the corporation and maintenance of the Kansas City Northwestern Railway, on a certain agreed basis, making it necessary in the accounts to keep track of all the items.

Mr. HAGERMAN:

Q. That is to say, the Chicago Great Western have no track of their own from Leavenworth down to Kansas City?

A. That is it.

Q. And they have a trackage arrangement for running over the Kansas City Northwestern?

A. Yes, sir.

Q. They pay their share of the rental and their proportion of the expenses?

A. Yes, sir.

Q. That is based on a wheelage proportion?

A. My recollection is it is divided on a wheelage basis.

3764 D. C. BUELL, a witness of lawful age, being duly produced, sworn and examined, on behalf of the Complainant, testified as follows, to-wit:

Direct examination.

By Mr. FRANK HAGERMAN:

Q. State your name, in full?
A. D. C. Buell.
Q. What is your business?
A. Inspector of transportation on the St. Louis & San Francisco Railroad.
Q. How long have you occupied that position?
A. Since October of last year.
Q. What has been your railroad experience?
A. I have had about seven years experience in general railroad work.
Q. Go on, and state your railroad experience.
A. My railroad experience consists of employment as a locomotive fireman, air-brake inspector and instructor, traveling fireman, general air-brake inspector on the Central Railroad of New Jersey. About four years experience as expert for the International Correspondence School.
Q. What is that?
A. Of Scranton, Pennsylvania, in their railroad department.
Q. What is that school?
A. It is a school for the instruction of railroad men, and they do a great deal of special railroad work for the different railroad companies.

3765 The line of work I had with them was along the subject of fuel economy, air-brake handling, and general train handling, and more especially tonnage work, and special investigations into general transportation matters.

I then went to work for the St. Louis & San Francisco Railroad Company, and had full charge of the tonnage handling on the system, under the direction of the Second Vice-President.
Q. Who was the Second Vice-President?
A. Mr. C. R. Gray. And since October I have been Inspector of transportation for the line.
Q. You have pretty closely and intimately associated with Mr. Gray on the Frisco system?
A. Yes, sir.
Q. For how long have you been with the Frisco Company?
A. About two years altogether.
Q. Are you familiar, in a general way, with the location of the Frisco lines in Missouri?
A. Not very familiar.
Q. You know how they run?
A. In a general way.
Q. How does their territory compare with that through which the Missouri Pacific runs?
A. The territories are, in certain districts, almost alike, the roads

crossing and recrossing each other. In other districts, our main line, for example from St. Louis to Joplin, is of a totally different character from the Missouri Pacific Main line, running through a different kind of country.

3766 Q. You run parallel to the Missouri Pacific for a certain distance out, until you get to Pacific?

A. Yes, sir.

Q. And then, over in the western part of the state, your line and the Misouri Pacific run practically side by side?

A. Yes, sir.

Q. Through the same counties, and the same territory?

A. Yes, sir.

Q. Have you given any study to this subject of how much more it costs to do state than interstate business?

A. Yes sir.

Q. The interstate business is divided into two classes: first, what we have called here "through interstate", that which starts outside of the state, and passes through the state without stopping at all?

A. Yes sir.

Q. And then the other classes, which either starts out of the state and comes in, or starts in the state and goes out?

A. Yes sir.

Q. And by state business we mean that which originates and ends in the state?

A. Yes sir.

Q. What are some of the elements that enter into the question of the increased cost of doing the state business?

A. There are quite a few elements that enter into that question: One of the first, perhaps, is the increased amount of equipment necessary for the handling of state as against interstate business.

3767 Then the delay to both the equipment and the power, or engines, used in handling the state business.

The- is more damage to equipment in state business than in interstate business.

May I consult a memorandum?

Mr. HAGERMAN: Certainly.

A. (continued). The high wages of the crews handling the state business is another item.

The light loading of many of the cars in the strictly state business.

The high empty car mileage resulting from the necessary handling of this state business.

The cost of the frequent stopping and starting of trains enters into it to a slight extent.

The extra work of the dispatching office.

The delays to the interstate trains in having to look out for these local trains.

The double terminal expense involved in handling strictly state business.

The fact that the state business is almost altogether handled in

local trains, which should run only during daylight, to get the greatest economy from operation.

The principal factor, perhaps, is the loss of tonnage on account of the short loads to set out and pick up; that being better explained by saying that if there is a load at some local station, the train has to leave the terminal light of tonnage in order not to be overloaded after picking up this load: Or, in the same way, if it has a load to set out at some intermediate state point, it has to run light of
3768 tonnage from that point into the terminal.

Where the state business is lighter than the engine capacity, there is also a delay of any through business which, in order to make a better showing, or, in other words, to reduce the expenses on the state train, they handle on these local trains.

Of course, added to that is the expense of the local stations, sidetracks, and all the various other items that enter into the strictly state business.

Q. Have you mentioned the question of long and short hauls, and what figure that cuts?

A. The long and short haul tells the whole story, practically of the increased cost. The terminal expense at both ends of the shipment being much greater in proportion than the hauling expense.

In other words, if a shipment has to be moved only five miles, it still has to bear the terminal expense at the point of origin and the point of destination; whereas, if that same shipment makes five hundred miles, while there is still the same terminal expense at each end, the hauling distance is so much greater that the final expense per mile is greatly reduced on the long haul below what it would have been for the short haul. The two terminal expenses being constant in all cases, the long haul, of course, necessarily reduces the proportion which the terminal expense bears to the total expense of handling.

Q. In expressing these views, you are aware of the fact that what you may call a through train, that is, in the sense of running
3769 from one division to another, may carry interstate as well as state freight?

A. Yes, sir.

Q. And what we call a local or way-freight train may carry interstate, as well as state freight?

A. Yes, sir.

Q. You have taken that into consideration?

A. Yes, sir.

Q. Now, taking everything into consideration, and everything these gentlemen will want to consider, including the increased revenue, if any, that may come from the state shipment, how much more would you say, on the Missouri Pacific road, it would cost to do the state than the interstate business?

A. I should say, without any doubt, that the expense was probably three times as great; and there are conditions which might make the expense vary, and be more on the Missouri Pacific than on other roads. I do not like to state definitely for the Missouri Pacific, because I do not know their conditions as well as our own. But I

should say three times would be the minimum figure, and it would probably run higher.

Q. That is taking everything into consideration?

A. Yes, sir.

Q. How would you work it out to get that extra cost, if you were going to figure it?

A. It is a pretty difficult thing to try and work out by figures.

Q. I know that.

3770 A. The proposition has got to be considered from the standpoint of what the service itself is. That is, how the state service differs from the interstate. The state service in a great many instances is to an entirely different character from the interstate service. I should have to take into account the empty car mileage necessary in order to get cars for loading at the intermediate stations. And the empty car mileage also involved to take away a car made empty, and for which there is no other loading.

The expense of the local trains, of course, has got to be considered; and whether or not they can be operated with entirely state business, or local business, or whether they must be given some interstate business, perhaps, to fill them out, and allow them to be run as economically as possible, considering the service.

The delay to the equipment would have to be very thoroughly considered.

Also the loading of the cars. That is, the space used up by the class of loading in the state shipments. That might, of course, in some cases be as heavy as the interstate loading. I am referring especially to the less than carload shipments which come into the state business in figuring on the space, taken up by the freight.

Q. I presume you mean that if you are given the actual cost of the interstate, and you knew exactly what that was, it would be just the use of a single multiple to find out the cost of doing the state business?

A. What is that?

3771 Q. If you were given exactly *was* the cost was of handling an interstate shipment, it would be simply a question of multiplication?

A. On the general assumption that it costs three times as much, it would, yes sir.

Q. Something has been said during the trial about estimating on a ton mile basis. Will you please explain why, of that is your view, the ton mile basis is only a system of averages, and does not represent the exact cost of any particular shipment?

A. An average hardly ever represents the cost of any special shipment on any line. The ton mile basis is a basis of generalities, if I can use that expression. That is, where everything is thrown together, irrespective of conditions or special circumstances to govern. It is brought down to an average, or ton mile basis, regardless of any special conditions.

Q. Just like you could work out an example on the ton basis, without the ton mile, or on the train basis?

A. The same thing. It is simply a question of averages.

Q. Could you tell the comparative cost, according to the ton mile basis, unless you had the loading capacity of the car, and how much of it was occupied by the respective shipments?

A. You mean the comparative cost of any one special shipment, based on the whole?

Q. Yes.

A. No, sir.

3772 Q. Why is that?

A. For the simple reason that your basis is an average, strictly, and would not be applicable to any special condition. It would simply be applicable to the average of the whole. For example, on the same basis a man might have two factories, one manufacturing iron and the other manufacturing furniture. If he judged the tonnage output of both factories on the average of both, it would not be fair to either the output of the furniture factory, or to that of the iron factory. The ton mile makes no distinction between the car of iron ore, and the car of package merchandise.

Q. Assuming, then, that the interstate freight earnings were eighty per cent of all the earnings, and the state freight earnings were twenty per cent of all the earnings, and it cost three times as much to do the state as the interstate business, what proportion of the expense ought, in your judgment, be charged to the state business?

A. Let me have that again.

Q. I used those figures because they are easy of calculation: Assuming that the state business received twenty per cent of all the revenues, and the interstate business receives eighty per cent; there is your one hundred per cent you have from your revenue. Now, it costs three times as much to do the state as to do the interstate business: what proportion of the whole expense would that result in charging to the state freight?

A. To work that example out, it would mean one-fifth of the revenue was derived from a class of freight that bore in

3773 reality three-sevenths of the expense. One-fifth of the revenue is derived from a class of freight that in this example costs three-sevenths of the whole expense of handling.

Q. That is just another way of doing it. The way I did it, I took twenty and multipled it by three, which makes sixty; then I took eighty and multiplied it by one, which makes eighty; thus making a sum total of one hundred and forty per cent; and so there would be chargeable to the state business, three sevenths. That brings out the same result you get in a shorter way?

A. Yes sir, that is the idea in your example.

Q. I took the figures twenty and eighty because they are easy of calculation. But whatever the figures were, they would work out the same way?

A. Yes, sir.

Q. Taking everything into consideration, the fact that there is an increased revenue from state business, and probably from a short haul, as against the interstate business; taking into consideration that the traffic can be hauled upon the two different kinds of trains,

whether through or local; taking everything into consideration, your judgment is that three times is a fair estimate?

A. Yes sir.

Cross-examination.

By Mr. KENNISH:

Q. You state that your position with the St. Louis & San Francisco Railroad is that of inspector of transportation?

A. Yes sir.

Q. What are your duties in that position?

3774 A. I don't know that I could better explain it than by saying that I am an extra pair of eyes for the General Manager. I have no specifically assigned duties, except that I am supposed to look into transportation matters generally on the system, and report anything out of line, and suggest such changes as will effect economies in operation.

Q. Who is the General Manager?

A. Mr. Nixon is the General Manager.

Q. What is Mr. Gray's position?

A. Mr. Gray is the Second-Vice-President. I reported to him up to October 1st, and since then to Mr. Nixon.

Q. Where are you located?

A. My office is in Springfield, Mo.

Q. Do you go out over the line? Or do you remain in the office?

A. I am on the line almost constantly.

Q. You say you have held that position since October last?

A. Yes sir.

Q. And you have been with the Frisco about two years?

A. Yes sir, previous to this time. I have been with them about two years altogether.

Q. What were your duties before you assumed your present position?

A. They were about the same duties, only I reported to Mr. Gray, who was then Second Vice-President and General Manager.

Q. You have not told us yet just what your duties were in either position: Explain more particularly what were your actual duties?

3775 A. I have tried to explain that it consists almost entirely of special work. Looking into transportation problems that arise on the road; taking up matters that need correction; and, as far as possible, going over the road with a view toward ascertaining if we can make any economies in operation; and recommending such changes as would be necessary to accomplish these economies. Special work of any kind that comes up in the transportation department.

Q. In the matter of the freight business exclusively?

A. Freight and passenger.

Q. You say before that you were connected with a school in Pennsylvania?

A. Yes sir.

Q. What school was that?
A. The International Correspondence School.
Q. Is that a school that teaches by mail?
A. Yes sir.
Q. What position did you hold in that school?
A. I was the General Manager's right-hand man in that school; well, I guess the only title I had was "mechanical engineer", and I don't know that I really had that. But it was special work, in the same way, for him.
Q. Were you a graduate of that school?
A. No, sir, I am a graduate of Perdue University, Indiana.
Q. What age are you?
A. Twenty-five.
Q. How long were you with the school in Pennsylvania?
3776 A. I was with them for four years.
Q. And you have been more than two years with the Frisco?
A. Yes sir.
Q. That would be six years?
A. Yes sir.
Q. When did you graduate from the Indiana University?
A. In 1899, in June of that year.
Q. Did you go directly after your graduation to the Pennsylvania school?
A. Yes, sir, I went with them first.
Q. You have never had any actual experience in the operating department of any railroad, in the way of operating trains?
A. Direct operation?
Q. Yes.
A. I have been right in the train service, you understand, on a locomotive, as a fireman, and have had charge of departments as I went along. That is, as general air brake inspector, I had charge of that branch of the operation, and with the Correspondence School I have done specific work for the officials of the different roads all over the country.
Q. You say you were a fireman?
A. Yes sir.
Q. On the train?
A. On the engine.
Q. When?
A. About four months after I was with the school. I was with the Central of New Jersey for about a year.
3777 Q. Before you went to the school?
A. No sir, I went to the school first, stayed there a few months, and then went to the Central of New Jersey, and was with them about a year.
Q. The reasons you gave for your opinion as to the increased cost of state business over interstate business, had relation to the kind of train that the state business was carried upon?
A. Not altogether, no sir.
Q. That was the main reason for the increased cost?

A. No sir, that was one of the reasons.
Q. One only?
A. One of the reasons, yes sir.
Q. What other reasons did you give?
A. Quite a few, I think.
Q. I will ask you, before you repeat the reasons, or give any more of them, Mr. Buell, if you had your reasons written down in a book, and if you read them from the book, in answer to Mr. Hagerman's questions on direct examination?
A. I made notes on some of them—yes sir.
Q. Did you have all of those reasons written down in your book?
A. Not all of them; some.
Q. What reasons did you give that were not in your book?
A. As the stenographer's notes show, before I referred to the book.
Q. What was the first reason you gave?
A. I will have to refer to the stenographer's notes. I
3778 don't remember what they were.

NOTE.—The stenographer here reads previous answer of the witness as follows:

"There are quite a few elements that enter into that question.
One of the first, perhaps, is the increased amount of equipment necessary for the handling of state as against interstate business.
Then the delay to both the equipment and the power, or engines, used in handling the state business.
There is more damage to equipment in state business than in interstate business."

Q. Did you have reference to equipment for local trains as compared with through trains?
A. No sir, with reference to state as compared to interstate business. It is all involved in the two. What I mean is, it becomes involved in the local, due to the fact that a large majority of the state business is handled in the local trains.
Q. And you give that as a reason why the local trains require a larger amount of equipment than through trains?
A. Because the state business requires a larger equipment than the interstate.
Q. Because a larger amount of state business is done on the local trains?
A. That is one of the factors. That is, the two combined together.
3779 Q. Wasn't your answer, that as most of the state business is done on local trains, and as local trains require more equipment than through trains, therefore that is the reason for the increased cost of the state business: isn't that the way you put it?
A. Ask that question again, will you please?
Q. (Previous question read.)
A. That is true to a certain extent. T-e equipment, the power, the engines,—that part of it is due to the local train's service, because the local engine does not make the mileage that the through

engine does. But the delay to the equipment required is due more to the fact that the car has to be set out, in loading it, and still more time required, waiting for the local to pick it up.

Q. That is due to the local train?

A. The picking up and movement has something to do with the local train. I do not want to say that delay is due to its being handled in the local train altogether. That is part of it. The other part is the delay at the station, setting the car out and waiting for it to be loaded.

Q. Isn't the car set out at the station by the local train?

A. As a rule it is, but not always.

Q. The through trains do not do that?

A. Not as a rule.

Q. They do not do the setting out or picking up of freight at stations?

A. Not as a rule.

3780 Q. You said very little state freight was carried on through trains, and in your answer you were making that assumption, weren't you?

A. I don't remember just how I expressed myself on that. There are some cases where a considerable amount of state freight is handled on through trains, but, generally speaking, it is not a very large amount.

Q. I will ask you, Mr. Buell, if you are not assuming that most of the state freight is carried in local trains, and that less than carload freight is carried in local trains?

A. Yes sir.

Q. What per cent of the state freight are you assuming to have been carried on through trains, in the opinion you have given, and what per cent, if any, of less than carload freight are you assuming to have been carried on through trains?

A. That is a question that to answer you can only guess at it. I have no figures, that are reliable, that say how much. The figures of each road would be different, depending on how the road was situated. Do you care for Frisco fogures here? I feel willing to make an estimate of our own, but not for another road, not knowing the conditions. I shouldn't say that in the state of Missouri the Frisco handled more than—well, say twenty per cent—that is just a guess of course—of the state business on local trains. It may be more in some districts than in others.

Q. And what per cent of carload business?

A. I don't believe that would run over five per cent. Those are just very rough guesses, because I have not any figures to back them up.

3781 Q. You are speaking with reference to the Frisco road?

A. Yes sir.

Q. And as to the Missouri Pacific you have no figures?

A. I would not be in a position to speak about that at all.

Q. To make any estimates as to the percentages of the different classes of freight?

A. No sir.

Q. Was your opinion as to the increased cost of state over interstate business based on your knowledge of conditions on the Frisco railroad?

A. The Frisco and others that I am familiar with.

Q. And you are not familiar with the Missouri Pacific?

A. No sir.

Q. What roads have you in mind when you say "others"?

A. The different roads I have been on sufficiently to make any estimate, or have knowledge of their operation. Do you want a list of such railroads?

Q. You have given the roads you have been connected with I believe?

A. That I have worked for. But I have said that in my work for the correspondence school, I have been pretty well over the railroads of the country.

Mr. HAGERMAN:

Q. Give the names of those roads?

A. The Central of New Jersey; The Delaware, Lackawanna & Western; the Boston & Maine; the Southern Railway; The West End of the Canadian Pacific; Chicago, Rock Island & Pacific; Chicago, Indianapolis & Louisville. There are a lot — others
3782 I would not want to put in this list, because I am not familiar enough with them to have made an estimate of that kind.

Q. What kind of trains were you referring to as doing part of the state freight business, Mr. Buell?

A. Any train is liable to have a car of state freight in it, whether it is local or through—any freight train.

Q. Any freight train?

A. Yes sir.

Q. You heard the witness testify yesterday and this morning, in regard to four freight trains between St. Louis and Kansas City?

A. Four trains of four classes?

Q. Four trains carrying what was called "Red Ball" freight.

A. Yes sir.

Q. Would those trains carry state feight?

A. Possibly they might, and pobably they would.

Q. What percentage would you estimate the state freight to be?

A. I haven't any idea. I do not know their conditions.

Q. If one of those trains was a train running between St. Louis and Joplin, and those two points were its termini, it would probably be loaded largely with state freight, wouldn't it?

A. We have a train that runs from St. Louis to Joplin, where perhaps conditions would be a good deal similar, and I don't suppose we handle over fifty per cent of state freight on that train.

3783 Q. You think that train would handle about fifty per cent?

A. We might handle that much; in fact, I think we would.

Q. And what per cent of freight in less than carload lots would be carried on it?

A. On that special train, almost all of it would be less than carload freight. That is, almost all of the fifty per cent would be merchandise for Springfield and Joplin and that territory right around Joplin.

Q. Fifty per cent of which class of freight do you say it would be?

A. I say it would be a large proportion, on that special train, of state freight, L. C. L. business.

Q. You say fifty-percent of the entire tonnage of that train would be less than carload business?

A. No sir, I said fifty per cent would, perhaps, be state business, and of that a large proportion—perhaps thirty per cent—would be less than carload stuff.

Q. And what proportion of the less than carload business would be interstate business?

A. Of the less than carload business, I should say about twenty per cent.

Q. Less than carload freight that is carried on through trains, costs very little more to handle than carload freight?

A. Repeat that question, please.

Q. Isn't it a fact that less than carload freight carried on through trains costs very little more than carload freight carried on the same kind of trains?

3784 A. You mean the total expense, or the expense of haulage, alone?

Q. The expense of haulage.

A. The expense of haulage alone, aside from the difference in the tonnage, is practically the same.

Q. The difference in the tonnage is made up, usually, by the difference in the rate, isn't it? There is always a higher rate on the less than carload business than on the carload business?

A. It depends on how the cars are loaded, if the difference is made up. There is a certain ratio there that could determine how the difference was made up.

Q. Do you know about that?

A. No, sir, I do not.

Q. But you do know that as far as hauling a car between St. Louis and Joplin is concerned, there would be no increased cost by reason of the fact that it is less than carload freight?

A. No sir, I do not say that. I say, except for the tonnage difference. You may have a car of coal that weighs fifty tons, and the capacity of the car is 100,000 pounds, and the car itself will weigh, we will say, seventeen tons. There will be twenty-seven tons in that one car. Your car of merchandise may not weigh more than twenty-tons altogether. In other words, for every one car of coal you would have to haul three cars of the less than carload freight to make its equivalent in tonnage. It is a well-known fact in the operation of trains that the shorter the train the more tonnage can be

pulled by an engine. Your short trains could handle more
3785 tonnage than your long trains of less than carload freight.

Q. In other words, it would cost the company more per ton on the less than carload freight than the coal?

A. Yes sir.

Q. But the rate would be correspondingly higher on the less than carload freight than on the coal?

A. That may be.

Q. Do you know what per cent of carload interstate freight is carried on the Missouri Pacific local trains in the state of Missouri?

A. No sir.

Q. In making your estimate, and giving the opinion you have, as to the increased cost, what per cent of interstate freight were you assuming was carried on the local trains, if any?

A. I did not stop to make that assumption.

Q. An intelligent opinion could not be given on that subject without having some knowledge of the percentage of the different classes of freight carried on the two classes of trains, could there, Mr. Buell?

A. I stated before giving that opinion, that it was almost impossible to arrive at any figures that would make it any more than an opinion. It is a known fact, nevertheless, that it does not depend altogether on the proportion of state or interstate freight handled in that local train, as to the increased cost of the state freight. Because, as I say, the operation, or increased expense of that local train, is only one of the items that enters into the increased cost of state freight.

3786 Q. Suppose that the percentages of the two classes of freight, state and interstate, carried on the local trains, were in the same proportion as the two classes of freight handled on the Missouri Pacific in the State of Missouri?

A. That is, each fifty per cent?

Q. Yes, or any other per cent. Take any per cent, provided the per cent in which the two classes is carried on the local trains is the same as the per cent of the two classes of the entire business done in the state?

A. I don't quite get that.

Q. Suppose, then, that the interstate freight was seventy-five per cent of the total freight business done in the state of Missouri, and the state business was twenty-five percent: and suppose the local trains carried state and interstate freight in the same proportions: would there be any increase in the cost of the state business, as compared with the interstate business?

A. On what basis? I don't understand that. Just a general assumption of cost, or compared to something else?

Q. On any basis.

A. Yes, I believe that would come somewhere near fulfilling the actual conditions that exist on certain lines. And the estimate made ought to apply pretty well to a case of that kind.

Q. That is, that there would be no increased cost in the handling

of local trains, so far as the state of business was concerned, over interstate business, if they were carried in that proportion?

3787 A. No sir, I don't think — is the way I answered the question at all. My answer was that this proportion represented perhaps somewhere near actual conditions, and the figure I gave that the expense would be perhaps three times greater for state as compared with interstate business, would be applicable to such an example as you gave in this special case.

Q. That is, if seventy-five percent of the freight carried on local trains was interstate, and twenty-five percent was state freight, that your opinion as to the increased cost of the state freight would apply to that kind of a case?

A. You didn't say that. Your question was seventy-five per cent of the business was interstate freight and twenty-five per cent of the business was state freight; and of that fifty percent handled on the local trains was interstate freight, and fifty per cent was state freight.

Q. No, I said, seventy-five per cent, and twenty-five per cent, dividing the freight handled on the local trains in the same proportion.

A. I didn't understand it that way.

The MASTER: That is the way I understood it.

The WITNESS: May the stenographer read it?

(Previous question read.)

A. That would not be as fair an example as the other.

Mr. KENNISH:

Q. Assuming that was the case, what effect would it have upon your estimate as to the increased cost of the state business?

A. It would probably reduce that estimate a small amount.

3788 Q. About how much?

A. That is a hard question to answer.

Q. Under that state of facts, how many times greater would be the cost of the state business as compared with the interstate business, in your opinion, as an expert?

A. Let me study over these conditions a moment. (After a pause.) I think a position of that kind would represent about the minimum difference between the cost; about three times would be perhaps the minimum. The more state freight there is handled on this estimate, of course the greater the difference in the expense.

Q. You say in that case it would be your opinion that the cost would be about three times?

A. I gave three as a minimum, and this, perhaps, would be the minimum because it is a good deal less than the actual conditions of operation would probably represent.

Q. Would that be three times the cost of handling a given quantity of freight as state freight, as compared with handling the same quantity and kind of freight as interstate freight?

A. No sir, that figure of three is based on all the conditions that govern. If it was the same class of commodities, and the same amount, it might change the figure.

Q. I am assuming it is the same commodity and the same amount.

A. I think that answers your question—that might change the figure.

Mr. HAGERMAN:

Q. What would you do about the same distance?

3789 By Mr. KENNISH:

Q. And carried the same distance?

A. Your question is, if you had the same amount of freight, of the same commodity, carried the same distance, either state or interstate, would that change the figure?

Q. No, I believe I asked you the question, if you meant by three times, in the case stated, that it would cost three times as much to carry a given quantity of state freight a given distance, as to carry the same kind of freight an equal distance as interstate freight?

A. No sir; the statement was that the figure three took into consideration all conditions. If you carried the same amount of state freight——

Q. What conditions do you take into consideration?

A. You assume the same things.

Mr. HAGERMAN: The double terminal would be the only difference.

Mr. KENNISH:

Q. Would that be the only difference?

A. You have assumed absolutely equal conditions, except one is state and the other is interstate.

Q. I thought you gave the terminal cost as an element in the increased state cost?

A. That would be the only difference between the two things you have stated on your assumption.

Q. In the case I asked you about, as to the less than carload freight, both state and interstate, carried on the through trains between St. Louis and Joplin, would there be any increased cost in the expense of handling the state less than carload freight on that train, as compared with the interstate less than carload freight?

3790 A. No difference except the one terminal cost.

Q. One terminal?

A. Yes sir. I presume by that——

Q. Will you explain wherein that difference would arise?

A. The state shipment of less than carload freight for Joplin, I believe your example was?

Q. Yes, if that is an example.

A. Would bear the terminal expense at the point of origin — the state—starting from St. Louis, you mean?

Q. Yes, take St. Louis.

A. It would bear the terminal expense at St. Louis. The haulage and delivery at Joplin would be precisely the same with either car.

Q. Are you assuming there would be any terminal expense in the case of the interstate shipment at St. Louis?

A. The only terminal expense there would be, would be putting the car in the train.

Q. That would be very near the same cost as to load the car at St. Louis?

A. Nowhere near it.

Q. Suppose a less than carload shipment of freight, which was interstate but was loaded at St. Louis—there are such shipments as that, aren't there, Mr. Buell?

A. Of what would they consist, for example?

Q. Say of merchandise shipped from different points, in less than carload lots, but in which the bulk was broken at St. Louis, and then the entire carload was loaded at St. Louis, of that interstate
3791 less than carload freight destined to Joplin. In that case the cost of the terminal handling at St. Louis would be just as much on the interstate shipment as on the state shipment, wouldn't it?

A. Is that considered interstate freight in this case? I will answer the question that in that particular case the cost would be the same. But I don't know whether you would call it interstate freight or not.

Q. It would be the same if the carload would be made up in the way I have stated?

A. The difference would be very small.

Q. Would there be any difference?

A. There would be the small difference that in one case you break bulk from one car to another, and in the other case you take it off the wagon and put it into the car. The difference would be practically nothing.

Q. What do you understand is interstate freight, as compared with state freight?

A. By interstate freight I understand to be meant freight that has origin in one state, and destination in another. Whereas state freight has both origin and destination in the same state.

Q. And that is the only distinction you would make as to the two kinds of freight, state and interstate?

A. There is, of course, the other kind of interstate freight that has neither origin nor destination in the state, but passes through the state.

Q. You took all these different classes into consideration, did you?

3792 A. In what case?

Q. In the opinion you gave as to the increased cost of handling the state over the interstate business.

A. Yes sir.

Q. In speaking of the terminal costs, Mr. Buell, you had reference to the shorter haul of the state freight, as compared with the interstate, didn't you?

A. I do not quite get the connection there.

Q. The terminal costs are governed largely by the length of haul of the freight?

A. No sir, the terminal cost is the same, irrespective of the length of the haul.

Q. It is the same?
A. Yes sir.
Q. Wouldn't the shorter haul have to spread out the cost of both terminals over a shorter mileage than the long haul?
A. I don't think I quite understand your question, Mr. Kennish.
Q. I will put the question this way: why do you say there would be an increase in the carriage of state freight by reason of the increased terminal cost of state freight?
A. I brought that point out in regard to the difference between the long and short haul, I believe?
Q. Yes.
A. Saying that the terminal cost would be practically the same irrespective of the hauling cost between those two. Now, on the short haul, the two terminal costs bear a high ratio compared
3793 to the hauling cost. Whereas, the longer your haul, the less the ratio between the cost at the terminals and the cost of the haul.
Q. And, as all freight has two terminals, if the haul of the state shipment was exactly the same distance as the haul of the interstate shipment, there would be no difference in the matter of the increased terminal cost in that case, would there?
A. All other things being equal, you mean?
Q. Yes.
A. I cannot see where there would be any difference.
Q. So the only reason why the state freight costs more, by reason of the increased terminal cost, is because of the shorter haul of the state freight as compared with the inter-state freight?
A. Provided they are both handled under the same conditions.
Q. I limited the question to the terminal costs alone.
A. The terminal costs alone?
Q. Yes.
A. I can see why there would be no difference as to terminal costs.
Q. If the length of the haul was the same?
A. I can see why there would be no difference.
Q. You make no distinction in the cost of the terminals, because one terminal might be out of the state, and one within the state?
A. I don't understand that. I don't see what you are
3794 driving at.
Q. I am driving at just this: you stated, I believe, in answer to Mr. Hagerman, that there was only one terminal to be considered in the case of an interstate shipment, while there were always two terminals in the case of a state shipment—at least I so understood you?
A. Yes sir.
Q. Now, I have understood you to say that if there was not difference in the length of the haul between the interstate shipment and the state shipment, and other conditions were equal, the terminal cost would be as much in the one case as in the other?
A. Why, that is reasonable to assume, although one of the terminals may be outside of the state. But you must remember that

this whole question involves a whole lot of different kinds of conditions. A large percentage of the interstate freight bears, so far as we are concerned, no terminal expense whatever, because it comes from a connecting line, and goes to a connecting line. Other freight might bear noth terminal expenses, although one of the terminals might be outside of the state. All those conditions are taken into consideration, and no one special condition, in giving these answers.

Q. Might not that very same state of facts be also true in the matter of the state freight?

A. Not as generally so.

Q. A state shipment of freight that came to your line from a connecting line, would only entail the terminal cost of one terminal on your road, just as you mentioned in the case of interstate
3795 freight, wouldn't it?

A. No, we would have to make two terminals. One to receive, and the other to deliver it, both in the state.

Q. Would not the receiving of the interstate shipment be exactly the same if it came from a connecting line, as receiving it from a connecting line on a state shipment?

A. Yes sir.

Q. Then there would be difference between the two shipments on that point?

A. No sir, not on that point.

Q. You say that the minimum cost of state over interstate shipments, would be about three times?

A. Yes sir.

Q. And you say you took into consideration all the surrounding conditions?

A. Yes sir.

Q. Did you mean the surrounding conditions of the Frisco railroad?

A. I meant my general experience, as I explained before.

Q. I understood you to say you did not have definite knowledge as to the conditions under which the two classes of freight were carried by the Missouri Pacific Railway?

A. Yes sir.

Q. And that you are basing your opinion upon what you knew of the conditions in the case of the Frisco Railroad?

A. And other railroads I was familiar with, I believe I said.

Q. And those are the conditions you refer to now, when
3796 you say that you took into consideration all the surrounding conditions?

A. Yes sir.

Q. I believe you said you included the matter of the rates?

A. I don't think I said anything about rates. You spoke of the different——

Q. I will ask you now if that would make any difference in the opinion you gave?

A. What do you mean?

Q. As to the rate received for the carriage of the two kinds of freight?

A. You mean would the difference in the revenue received, as compared with the increased cost of the service, still make that ratio of three?

Q. Would it have any bearing in the increased cost of the state freight as compared with the interstate freight?

A. Why, yes, that is one of the things that does bear on it.

Q. You considered that?

A. Yes sir.

Q. And what did you consider the rate at which state freight was carried, as compared with the rate at which interstate freight was carried, in the State of Missouri?

A. Under the new law, or existing conditions?

Q. Whatever conditions you had in mind when you were testifying and giving your opinion as to the increased cost.

A. I understand, of course, that the rates on state freight
3797 are in some cases higher than those on interstate freight.

Q. In some cases?

A. Yes sir.

Q. Which rates did you have in mind, the rates under the new law, or under the old law?

A. I had in mind the conditions as they exist today—the conditions that now exist.

Q. The carrying of freight under the old law, as you call it?

A. Yes sir, under the present rates which exist now.

Q. And not those under the Act of 1905?

A. No sir.

Q. About what per cent of increase in the state rates were you assuming to exist, as compared with the rates for the hauling of interstate freight in the state of Missouri?

A. I don't know that I had made up my mind to any definite percentage in that case.

Q. If you can, give it in any other way, whether it was one-twelfth higher, or double, or as high as the interstate?

A. I am not a rate man. All I know about rates is a very general proposition, and would not be of very great value as evidence. I am not familiar enough with the rate situation to know what they are.

Q. You have no definite knowledge as to the rates received for the different classes of freight?

A. Not to give the proportions you ask for.

Q. Would you assume, in the opinion you have given, that the state freight paid increased rates for its transportation of say
3798 ten per cent, over what was received for the carrying of interstate freight: would you think it would be that much?

A. Bunching the whole thing together, as state and interstate?

Q. Yes.

A. My idea has been that it would be, possibly, ten per cent more, although I have not very definite information, one way or the other, as to what it actually would be.

Q. You said you believed in some cases the state rates were somewhat higher than the interstate rates?

A. Yes sir.

Q. And you were taking that into consideration in the opinion you gave?

A. Yes sir.

Q. You think now that probably that increase in the rates received for the transportation of state freight would be in the neighborhood of ten per cent?

A. No sir, I have no idea.

Q. You say you took that into consideration in giving your opinion?

A. I took the general rate situation, knowing the rates were higher, but not exactly what the percentage was.

Q. Wouldn't it be necessary to have some idea of how much higher they were, if that was an element that affected the increased cost of the state as compared with the interstate freight?

A. I have some idea of my own, but, as I say, I am not well enough posted on rates to make my ideas on the rate situation of value.

3799 Q. I am not asking you to place it definitely.

A. In placing three times as the minimum I have considered that the rates might be even fifty or a hundred per cent more in the one case than in the other on certain articles.

Q. I understood you, then, to say that it is your opinion now that it would be somewhere in the neighborhood of ten per cent?

A. No, sir, you asked me if it would be as much as ten per cent, and I said yes.

Q. Do you think it would be more?

A. I took into consideration the possibility of its being quite a little more than that.

Q. I will ask you to state about what difference in the rates received for state as compared with interstate freight, you assumed in giving the opinion you have given as to the increased cost of the state traffic?

A. I assume in that three as a minimum, that it might possible be as much as fifty per cent, or perhaps a little more.

Q. Fifty per cent higher on state freight than on interstate?

A. Yes sir, and perhaps a little more on certain commodities.

Q. What effect would increasing the state rates, as compared with the interstate rates, have upon your opinion as to the increased cost of the state freight as compared with the interstate?

A. I don't quite get that.

Q. I say, what effect would increasing the rates on state
3800 freight, as compared with interstate traffic, have upon your opinion of the increased cost of the state business as compared with the interstate business?

A. It is reasonable to assume that, as the state rates increased, they would help bear their burden of handling the state freight.

Q. And the increased cost would diminish as the rates on the state freight would increase?

A. That is reasonable, yes.

Mr. HAGERMAN:

Q. On the whole?
A. Yes sir, as a general proposition. That is a self-evident truth.

Mr. KENNISH:

Q. Now, Mr. Buell, I will ask you to take down these figures: assuming that *that* the earnings on the state freight in the year 1905, were $1,632,865.14; and that on interstate freight for the same year the earnings were $3,777,390.45; and that the total cost of carrying both kinds of freight was $4,999,021.58. Assuming that it cost three times as much in proportion to revenue to do the state business as to do the interstate business, how much would the rates on the state traffic have to be increased in order for the company to receive a profit on the state business? And make the same computation on those figures, assuming that the increased cost of doing the state business, as compared with interstate business, would be six times in proportion to revenue.

NOTE.—The answer to this question is to be filed at a later date.

3801 Cross-examination continued.

By Mr. LADD:

Q. I think you said that one cause of the increased expense of doing state over interstate business, was the enhanced cost of moving way-trains?
A. Yes sir, that is one of the elements.
Q. Do you know what proportion of the freight moved on local or way-trains on the Missouri Pacific Railway is interstate, and what proportion is state freight?
A. No sir.
Q. What would you suppose it was?
A. I think we took a case and said it might be fifty per cent. I think I made that statement before.
Q. I am asking you now what — your idea about it?
A. That is my idea, about fifty per cent.
Q. That fifty per cent of the freight moved on the way-trains would be state, and fifty per cent interstate freight?
A. That would be my idea for the certain districts I have in mind and considered.
Q. I am talking about the system in Missouri.
A. Which system?
Q. The Missouri Pacific Railway system.
A. On the Missouri Pacific, it would be simply a guess. I have not in mond those conditions.
Q. What had you in mind in giving your testimony?
A. I had in mind fifty per cent.
Q. Your idea is that fifty per cent of the freight hauled on
3802 way or local trains on the Missouri Pacific system is state freight, and fifty percent is interstate?

A. It has nothing to do with the Missouri Pacific. That is a general statement, and is not applicable to the Missouri Pacific, because I stated that I knew nothing about the conditions on the Missouri Pacific.

Q. What does the fifty per cent apply to?

A. It applies to the assumption I made in reference to the conditions I knew about.

Q. When you give your estimate of the cost, you do it upon the assumption that fifty per cent of the freight on the way or local train is interstate, and fifty per cent is state freight; is that right?

A. Yes sir; I will say yes to that.

Q. Suppose there are delivered to the Missouri Pacific Railway at St. Louis five carloads of freight from its connecting line east; they weigh the same, and are the same kind of commodity. Those are for points west, on the line of the Missouri Pacific, which I will mention presently. At the same time there are delivered to the Missouri Pacific Railway Company by consignees here at St. Louis, five cars exactly the same kind of freight, and of exactly the same weight. Two of those cars are for Kirkwood, two of them are for Pacific, two are for Washington, two for Hermann, and two for Jefferson City; and one car for each of those points contains interstate freight, and the other state freight. Those ten cars are put into the way or local train, starting from St. Louis for Jefferson City. It is in evidence that there is a way train that runs from St. Louis towards Jefferson City.

3803 A. Those all go into the local train for Jefferson City, do they?

Q. They do.

A. What about them?

Q. One carload of each of those two classes of freight is intended for each one of those places. How do you say the expense of hauling and delivering that freight at those places ought to be divided between state and interstate?

A. The only thing I can say there is that if it were our line we would have to haul the empty car, perhaps, from St. Louis.

Q. I asked you how the expense of hauling and delivering that freight ought to be divided between state and interstate?

A. The expense of hauling delivering, simply would be practically the same in the two cases.

Q. It would be exactly the same?

A. Practically so. But that does not cover the whole proposition.

Q. I didn't ask you that. Just answer my questions.

Suppose instead of that, sixty per cent of that freight was interstate, and only forty per cent state: How ought the expense of the movement of that train, and the delivery of that freight be divided?

A. In the same proportion.

Q. Sixty per cent to the interstate, and forty per cent to the State?

A. Yes sir.

Q. Suppose it was sixty-three per cent interstate, and

3804 thirty-seven per cent state, how should it be divided?

A. This is still hauling and delivering only?

Q. Yes, exactly.
A. In the same proportion.
Q. No difference, is there?
A. Not for the hauling and delivering—no sir.
Q. What other expense is there?
A. The hauling of the empty cars to load them, from Texas up here to St. Louis, is the only additional expense.
Q. The hauling of the empty cars from Texas to St. Louis?
A. Yes sir.
Q. Five empty cars are hauled from Texas, in order to load this St. Louis freight?
A. In some cases, from Missouri, from where the cars come from.
Q. You take such a circumstance as that into consideration in making your estimate that five cars of state freight have to be hauled from Texas?

Mr. HAGERMAN: You didn't let him finish. He said Texas, and several other points.

Mr. LADD:

Q. What other expense is there, besides hauling and delivering?
A. There is the switching of the empty cars, placing them on the team track for loading; the delay to the car while being loaded; switching it back from the team track, or wherever the car is loaded, into the main yard; and the expense of putting it into the
3805 train. This is practically the same as in the case of the other car.
Q. What does that amount to per ton?
A. Oh, I don't know.
Q. You can't tell anything about it?
A. No, sir, not per ton.
Q. Is it a substantial sum? What does it amount to per carload?
A. Hauling the empty, and switching back and forth?
Q. I am talking about switching. Confine yourself to that. Take a car on the track, to be loaded by the shipper.
A. You will have to state some conditions.
Q. On the Missouri Pacific?
A. I don't know about that.
Q. You don't know a thing about the Missouri Pacific?
A. Not particularly.
Q. What road do you know about?
A. The Frisco, and the others I have mentioned.
Q. Give me the expense of putting an empty car on the team track for the consignor to load?
A. Take for example, Memphis: the expense is higher at that point than the average; it will run, perhaps, fifty cents per car handled.
Q. Fifty cents per car?
A. Some of those cars——
Q. But I——
A. I have a right to finish my answer, haven't I?

Mr. HAGERMAN: Yes, you have.

3806 A. Some of those cars are moved right through, by simply changing the engine and caboose. The engine does not handle them. The others have to go with a special switch engine. They have to be switched out to the team tracks. That takes the time of the engine and the freight crew. You cannot give any example. I am simply accommodating you by saying it costs fifty cents per car where you consider the whole thing.

Q. It costs fifty cents for what?

A. The average terminal expenses.

Q. Does that include the setting of the car on the team track for the consignor to load it?

A. That includes the setting of some of them.

Q. That is the average?

A. That is what I am giving you, is the average.

Q. Will that include the expense of setting the empty car on the team track at Memphis for the consignor to load his freight in, that fifty cents per car?

A. No sir.

Q. What will be the expense?

A. I told you I couldn't tell you.

Q. Can you make a guess?

A. No sir, I would not want to make a guess on that.

Q. I wish you would guess for me as well as you did for Mr. Hagerman.

Mr. HAGERMAN: That is a mean fling.

The MASTER: That is not at all warranted.

Mr. LADD:

Q. Cannot you make an estimate?

3807 A. If you ask a direct question, I will try to give an answer, but that is impractical.

Q. I want those terminal expenses.

A. I say it is impractical to get it for one special car.

Q. What is your average?

A. The average I gave you is fifty cents.

Q. Do you know the percentage of state freight, the relative proportions of state freight and interstate freight hauled on the way trains of the Missouri Pacific Railway in Missouri?

A. No sir.

Q. Have you any idea?

A. No sir.

Q. You say the average would be fifty cents a car?

A. Yes sir.

Q. Is that expense more or less than the expense which the Missouri Pacific Railroad would be to in getting into its train on a car which comes across the river from a connecting line?

A. Mr. Ladd, it is very hard to answer a question of that kind, because the conditions under which you are operating govern the thing altogether. With some connecting lines, you have to go five miles to get your car, and with others you get them right where your train is made up.

Q. The substance is, that you do not know?
A. The substance is not that I do not know, but that the question is not practical.
3808 Q. The trouble is with the question, and not your want of knowledge: is that it?
A. I will say yes to that.
Q. I will ask you whether the terminal expenses you have mentioned, of putting an empty car on a team track at the terminals in this city, for the consignor to load his freight in, is greater or less than the handling by the Missouri Pacific Railway of a loaded car delivered to it by a connecting line from the other side of the river; is it more or less?
A. Yes sir, under almost every circumstance.
Q. It is more?
A. Yes sir.
Q. How much more?
A. The question included both putting it on and taking it off. Does it include both movements?
Q. The evidence here shows that carloads of freight are delivered to the Missouri Pacific Railway by their conecting lines on this side of the river at their yards. The Missouri Pacific then has to go and get that car and put it into its train?
A. Yes sir.
Q. That is an expense that the Missouri Pacific has in connection with such a case as that?
A. Yes sir.
Q. Does that cost more or less than to place an empty car on a team track and put it into a train?
A. I answered that it *soct* more, and you asked how much more, I believe.
3809 Q. Which costs the more?
A. Putting the car on the team track, and going and getting it again.
Q. That is the way I understood you. Would it cost half as much or more, or twice as much or more?
A. It would be fair to say at least two times as much, because you have to make two moves, where otherwise you make one move. But, of course, conditions would govern that, just the same as the other; I will say twice as much, to be reasonable.
Q. In one case you make two moves, setting the car on the team track, and then putting it in the train: is that what you mean?
A. You make two moves, setting the car on the team track and going and getting it off the team track, ready to put into the train.
Q. And in the other case you make only one move?
A. You put it right into the train from the transfer.
Q. You have to go after it?
A. They bring it right to you.
Q. Is that your idea?
A. In St. Louis?
Q. Yes.
A. The Terminal Railroad Association controls the situation,

and they bring you the car right where you want to put it in the train.

Q. That is your idea, is it?

A. That is the way they do with us.

3810 Q. Suppose the Missouri Pacific has to go some place where the Terminal Association leaves that car, and then has to take it from there up to where they want to put it into their train?

A. It would be an additional movement for that engine.

Q. There would be two movements, then, against one?

A. Two as against three, wouldn't it?

Q. Then what would be the proportion of the relative expense?

A. You get into another thing there. Where you get a connection, you take a whole lot at a time, but where you get a car off the team track you go in and get only one or two cars. I said twice as much, to make a fair estimate of an intricate question to answer, which is governed by conditions. But you come down and get two moves as against three moves, as a possible case, if you don't have to do any switching on your team track. Your connection part all comes in together, whereas with your cars on the team tracks, they have to be switched out, and perhaps handled two or three times.

Q. Do you remember the question I asked you about the five cars?

A. Yes sir.

Q. And you said that in that case the expense should be evenly divided?

A. Yes sir.

Q. Now suppose that for hauling five cars of state freight the railroad company got twice as much money as for hauling the five cars of interstate freight, how should the expense be divided?

3811 A. Probably put that excess back on to the increased cost, they get on the other end of it. If you consider it just on that proposition, I will say then that the expense ought to be divided in that ratio; that is self-evident. If you get twice as much for doing one thing as for the other, that can be applied to the cost of doing the other, if you consider just that partial condition.

Q. Did I understand you to say that in that case, if the railroad company gets twice as much revenue from the hauling of the state carloads as from the hauling of the interstate carloads, that the expense of the movement and delivery of that freight, one-third of it ought to be charged to the interstate and two-thirds to the state freight: is that it?

A. Why, no, I don't understand that I ever said anything like that.

Q. I am asking you if that is what you meant?

A. No sir.

Q. Does it make any difference in the division of the expense what the revenue is?

A. In the division of the expense does it make any difference what the revenue is?

Q. The division of the expense of hauling and delivering that freight?

A. I cannot get that through my head either.

Redirect examination.

By Mr. HAGERMAN:

Q. You were asked something about making a delivery of cars under certain conditions, and you said fifty cents per
3812 car handled: what is the meaning of the expression "car handled"?

A. Take the entire expenses of the terminals, and divide it by the number of cars handled in and out, and you arrive at a certain figure.

Q. Fifty cents per car handled: What would that amount to per car that was put on the siding?

A. As I tried to explain, Mr. Hagerman, if we take the total expense for conducting the terminals, for a month, and divide it by the number of cars handled in and out, we would get a figure representing the expense of the cars handled.

Q. This particular car would be handled, probably, a good many times before you got it over to the switching place?

A. That is the point I was trying to make. In one case the car goes to the team track, but it might be handled back and forth through the yards a dozen times. Whereas, that through train might go through without the switch engine ever touching it.

Q. Have you any figures to show what, on the average, fifty cents per car handled would aggregate as the result of getting the car upon a siding?

A. It might be multipied, even upon that average figure quite a few times.

Q. That car might be handled five times, or ten times, before you got through, but I don't know whether you had in mind any particular figures, so we could get the average figures, as against the car itself.

A. No sir, I couldn't give that.

Q. Something was said by Mr. Kennish, in opening your cross-examination, that you had referred to some book you
3813 had?

A. Yes sir.

Q. You have been here during the taking of the testimony?

A. Yes sir.

Q. And that book is simply a memorandum book in which you made notations?

A. I have been making notes as I sat around here.

Q. It was not anything prepared by anybody for you to testify from?

A. Not at all.

Q. It contains your own pencil notes of thoughts that came to your own head?

A. That is it.

Recross-examination.

By Mr. KENNISH:

Q. Will you be going home before the next hearing in this case?

A. I expect to go home tonight.

Q. Do you expect to come back here?
A. I don't know whether I will or not.
Q. Then I will ask you to work out the example given you, and leave it with Mr. Johnson: will you do that?
A. I will do that.

3814 Mr. HAGERMAN: The paper which Mr. Buell was to file in answer to a certain question asked him, is as follows:
The paper referred to is marked Exhibit No. 18, and is in words and figures following, to-wit:

3815 At this point the further hearing of testimony herein was adjourned to Tuesday, February 5th, 1907, then to be resumed in the Federal Building, in the City of St. Louis, Missouri, at which time and place all parties will attend without further notice.

3816 ST. LOUIS, MO., *February 5th*, 1907.

Met pursuant to adjournment as above on Tuesday, February 5, 1907, at ten o'clock in the forenoon, in the Federal Building in the City of St. Louis, Missouri.
Present: Hon. F. L. Scofield, Special Master.
Mr. Frank Hagerman appeared for the Complainant.
Messrs. S. B. Ladd and John Kennish appeared for the Defendant.
The following proceedings were had:

Mr. HAGERMAN: We want to offer in evidence testimony taken in the Burlington case, so far as it is applicable to this case, on the question of expertness.
Mr. KENNISH: We would like to look over that first, and see what witnesses should be used. Some witnesses were used on that and also other questions.
Mr. HAGERMAN: I was going to limit it to the question of expertness.
The MASTER: Could not Counsel agree to introduce evidence in this case only such parts of the record as they might select, and recopy it, so I will not have the difficulty of selecting that which is material and pertinent to this case, and that which is irrelevant and introduce only that part.
Mr. HAGERMAN: That can be done, but would be an immense job of recopying.
The MASTER: If Counsel could agree upon the specific parts of the record, page so and so, and introduces them in the evidence here, in its final form.
3817 Mr. HAGERMAN: We might do it in some way by reference to the record in the Burlington case.
Mr. HAGERMAN: I offer in evidence in this case the testimony given in the Burlington case by the following named witnesses, towit:
Mr. G. H. Crosby, Mr. H. Elliott, Mr. H. A. Gray, Mr. G. B. Harris, Mr. F. P. Johnson, Mr. I. G. Rahn, Mr. H. Roth, and Mr. J. S. Stuart.
Mr. HAGERMAN: I also offer in evidence in this case certain por-

tions (to be hereafter specifically designated) of the testimony of C. I. Sturgis given in the Burlington case.

Leave is given counsel for defendant, to hereafter designate such portions of the testimony of C. I. Sturgis as they may desire to offer in this case. Said testimony from the Burlington case will be found on the following pages of this record, towit:

3817½	G. H. Crosby pages	946-991-1002 & 1519
	H. Elliott "	679-683
H. A. Gray	"	1077-1113-1191-1208-1215-1216
G. B. Harris	"	908-922
F. P. Johnson	"	2244
I. G. Rawn	"	965-977-989
H. Roth	"	2256
J. S. Stuart	"	1218-1222-1236-1242

3818 B. H. BETHARD, a witness of lawful age being duly produced, sworn and examined on the part of the Complainant, testified as follows:

Direct examination.

By Mr. FRANK HAGERMAN:

Q. Give your full name, please.
A. B. H. Bethard.
Q. Your position is what?
A. Superintendent of Transportation of the M. K. & T. R. R. Company.
Q. How long have you held that position?
A. About five years.
Q. With the same road during those five years?
A. Yes sir.
Q. What has been your road experience previous to that?
A. I have been in railroad work about thirty years as telegraph operator and agent, train despatcher, train master and superintendent.
Q. On what lines, besides the M. K. & T.?
A. I have been with the C. B. & Q., the Chesapeake & Ohio, the Iron Mountain, and the M. K. & T.
Q. How much of the time in Missouri?
A. I never have worked directly in Missouri. My present position, I have the entire M. K. & T. Railway System.
Q. I mean, how much of your time has been connected directly with Missouri work?
A. Just five years.
Q. Where were you upon the Burlington Road?
3819 A. I was at Rock Island.
Q. You are familiar are you with the way the Missouri Pacific lines run in Missouri?
A. Fairly well.
Q. And how do they compare with the M. K. & T.?
A. We run through generally the same character of country.

Q. And practically the same elements enter into the question of transportation in the M. K. & T. territory as enter into it in the Missouri Pacific territory?

A. Yes sir, I shou-d say so.

Q. The Missouri Pacific runs up the Missouri River on the south side and you meet it at Boonville running on the north side of the river?

A. Yes sir.

Q. And from Boonville through the southwestern part of the state do you run through practically the same kind of country that the Missouri Pacific does?

A. I think so.

Q. Are you familiar with the class of traffic that is called "interstate freight"?

A. In a general way, yes sir.

Q. What I want to particularly direct your attention to is, that there are two classes of interstate freight, one that originates outside the state, and passes through, either upon the same road, or upon through billing with connecting roads, and has its destination outside the state. That would be with origin and destination outside the state, but passing through the state. Another class of interstate freight would be that which has its origin in the state and passes out of the state or has its origin outside of the state and its
3820 destination in the state. That, in a general way, is what I mean by "interstate freight". Do you understand it in the same way?

A. Yes sir.

Q. And state freight I want to speak of in *in* the sense of freight that originates and ends in the state.

A. Yes sir.

Q. Would you tell the master some of the elements that enter into the question of the extra cost, if there is any, of doing the state business over the interstate business.

A. First, there is in doing a strictly state business, the two terminals. Where you do a through business, originating and ending outside the state, there is no terminal charge. If the road is an intermediate road.

Where freight originates within the state and ends outside the state, there is one terminal charge. In handling the purely state business, you are handling it in trains that you cannot load down to the full engine efficiency, neither can you get your full carload, like you can on through business; for the reason that there is not the large towns in sufficient number in any one state to load your trains and cars fully, and the trains doing the state business are handling the state business and distributing cars from one station to another.

Q. I suppose you mean by "distributing", if for instance they would start at the point of origin and happen to start with a full train, the contents of that might be distributed along the line?

A. Yes sir.

Q. So when you would get to destination you might have an empty train?

3821 A. Yes sir.

Q. And you might start with an empty train, and pick up carloads going along?

A. On branch lines it is usually the case, that you have not hardly any freight for your trains, although you have to run the trains to maintain the service.

Q. And on the branch line, the main portion of the business would be interstate or state business?

A. I am speaking now of strictly state business.

Q. What figure does the long and short haul cut?

A. With the long haul traffic, as a rule, you can load your trains to their limit.

Q. Now the short haul, what is the difficulty about it?

A. The difficulty in the short haul, is the distribution, as I mentioned awhile ago.

Q. Something was said here by some of the witnesses, that in doing the state business, in the main it is done in the daylight as distinguished from night service; and it is largely done upon way trains as distinguished from through trains.

A. Yes sir, a great portion of the state business is handled in what we call "way freight trains". Trains that do the work at the different stations, and distribute the cars for the different stations and pick them up. That class of service is more expensive so far as the wages of train crews are concerned than the through service, for the reason that they are longer on the road and earn overtime.

Q. Are you familiar with the general method adopted of ascertaining the number of tons per mile hauled, or the cost per ton or per ton mile, or per train?

3822 A. I see those statements, yes sir.

Q. In a general way you are familiar with them?

A. Yes sir.

Q. You have not anything to do with the preparation of them?

A. No sir.

Q. I am assuming, and I presume that is a fact, and if it is not I would like to have you tell me, that the cost per ton per mile is something that is ascertained somewhat as a system of averages?

A. Yes sir, that is what I understand. It is the average of the cost of the entire business.

Q. Could you accurately ascertain the cost per ton mile, as between a shipment of state and a shipment of interstate freight without knowing the contents, and the amount of waste tonnage there was in the car?

A. No sir, I could not.

Q. Explain what this waste tonnage is, and how that is an element or cuts any figure in this question of extra cost.

A. In handling business within the state, as I stated a while ago, most of it is handled on the way freight trains, and the business goes, as a rule, to small places, and the cars are not loaded to their capacity. A great deal of it is merchandise, small freight,

where your average carload is not more than three and a half tons to four tons per car.

Q. Can you give some illustrations of the class of freight which would be carried where there would be a large amount of waste tonnage?

3823 A. Bulky, light freight, hats and millinery and things of that sort.

Q. Taking everything into consideration, Mr. Bethard, what would you say as to how much more it costs to do the state business than the interstate business?

A. I should say it would cost four or five times as much, just offhand. I have never gotten down to the actual figures.

Q. That is basing your judgment just upon your general experience?

A. Yes sir and knowing the loss that occurs in handling that class of traffic.

Cross-examination.

By Mr. S. B. LADD:

Q. You were basing your opinion as to the increased cost of the state business compared with the interstate business, on the extra cost of operating local trains, and the extra terminal cost chargeable to the state freight business: is that correct?

A. Those are two of the items. The others are loss in train tonnage, and loss in equipment.

Q. Would not that be a reason that would apply to the extra cost of operating the local train, the trains that you say handle largely the state business?

A. There is a great deal of lost equipment in the handling of business at the smaller stations, for this reason: the cars are unloaded at such stations by team, and frequently in loading them they haul from the country by teams. And those shippers are afraid of the demurrage charge, and they loaded as much into a car in two days as they can, and then let the car go, pro-

3824 vided it has the minimum weight.

Q. That is an item that would be caused from the increased expense in the handling of local trains as compared with through trains, wouldn't it? Now I asked you if all the reasons you gave were not either such as would result from the extra cost of handling local trains as compared with through trains, or such as would be included in the extra terminal cost.

A. If I understand your question aright, that is so, yes sir.

Q. All of your reasons would fall either under the one or the other of those two heads?

A. The extra expense of train crew, and the loss of equipment, the loss of tonnage, both in cars and trains, would be about what I mean.

Mr. HAGERMAN: How about the short haul?

A. That is covered in the loss in tonnage.

Mr. KENNISH:

Q. Basing your opinion upon those reasons for the increase of expense of handling state traffic over interstate traffic, you were assuming, of course, that the state business is done largely on the local trains while the interstate business is done largely on the through trains: in what proportion would you say the state business was done on local trains as compared with the amount of interstate business done on local trains, and the same percentages as to the two classes of freight on through trains?

A. Well, I should say that the state business, 75 per cent of that, would be handled on way freight trains; and your through business——

Q. Give the per cent of interstate business handled on
3825 way freight trains? The other 25 per cent?

A. That would be through service.

Mr. HAGERMAN: What he means to say is, 75 per cent on way trains and 25 per cent on through trains: that would make the 100 per cent.

A. I did not understand your question to apply to the interstate business.

The MASTER: He says 75 per cent of the state business was on way trains, and that would leave 25 per cent on through trains.

Mr. HAGERMAN:

Q. Now what proportion of the interstate business?

A. I should say the interstate business at least 90 per cent of that would be done on through trains.

Mr. KENNISH: 90 per cent of the interstate?

A. Yes sir, interstate, through business.

Q. This is, the business done on the through trains would be 90 per cent interstate freight: is that your idea?

A. No sir, I mean—I understood your question to be that you wanted to know how much through business was handled on through trains and how much through business was handled on way freight trains.

Mr. HAGERMAN: You used "through" in both senses. What he asked was, interstate business on through trains.

Mr. KENNISH:

Q. How much of the business done on through trains is interstate freight business?

A. You mean through trains within a state, or the regular through service?

3826 Q. What we call through trains as compared with what we call local trains?

A. I should say 90 per cent of the through trains handle through business. 10 per cent of the business handled by through trains would go on the way freight, at some point within a certain state.

Q. Do you mean by through business, as given in that answer, interstate business?

A. I expect I do not understand your question.

Q. You said that in your judgment 90 per cent of the business done on through trains would be through business: now, do you mean by that interstate business.

A. Yes sir. I think perhaps, well perhaps not 10 per cent, but I should say 5 per cent of the business handled on through trains—no, it would not be that much either. I should say 98 per cent of the business handled on through trains was through business.

Q. That is, interstate business?

A. Yes sir. Nearly all.

Q. How much of the business on through trains would be of the class of freight known as less than carload freight?

A. Well, I could hardly answer that, off-hand. No more than 10 per cent, I should say, 10 or 15 per cent.

Q. Then I understand that in your opinion only 2 per cent of the freight carried by through trains would be state freight?

A. Yes sir.

Q. And the other 98 per cent would be interstate freight?

3827 A. Yes sir.

Q. "Local trains," did you mean by that term trains that stop at each station to deliver and receive freight?

A. Yes sir.

Q. Now what proportion would you say of the freight carried by that class of trains would be state freight, and what per cent would be interstate freight?

A. Well, 95 per cent of that business would be state freight.

Q. And 5 per cent interstate freight?

A. Yes sir.

Q. What would be the percentages respectively of state and interstate freight on the local trains, in less than carload lots?

A. State freight, did you say?

Q. Yes, and interstate.

A. Well, the state freight—you mean in pounds or tons or cars?

Q. Well on tons or pounds, as to weight.

A. I should say that about 40 or 50 per cent of the less than carload.

Mr. HAGERMAN: I did not understand that question.

Previous question read.

Mr. KENNISH:

Q. Your opinion is that about 40 or 50 per cent of the freight carried by local trains would be less than carload freight?

A. Yes sir, I should think so.

Q. Would you divide that 40 or 50 per cent of less than carload freight, between state and interstate?

3828 A. On way freight trains, that is practically all state business. Of course some of it goes through, but it is a very small amount.

Q. You assume that the whole 40 or 50 per cent is state business on the local trains?

A. Yes sir.

Q. Nearly all the less than carload freight?

A. Yes sir.

Q. How much of the other 50 per cent carried on the local trains, carload lots, would you consider as state freight, and how much as interstate freight?

A. I should say 45 per cent was state freight.

Q. 45 per cent state?

A. Yes sir.

Q. Then in the estimate you have been making, Mr. Bethard, there is practically 5 per cent of the freight carried on local trains, both classes, less than carload and carload freight, that is interstate: and all the rest of the freight carried on those trains is state freight?

A. Yes sir, I think that is about right.

Q. And your opinion is based largely because of the great preponderance of state freight carried on the local trains, and the great preponderance of through freight carried on the through trains?

A. Yes sir.

Q. And in proportion as the interstate freight would be increased on the local trains, from the figures you have given, as compared with state freight, the increased cost would diminish proportionately in your opinion?

3829 A. To some extent, yes sir.

Q. For instance, if the local trains carried as much interstate freight as state freight, that would materially affect your opinion as to the increased cost of the state freight business?

A. That would depend largely on where that freight originated, whether or not it would decrease, and how well it is loaded. You know freight that is loaded at local stations, they do not get the full load in, and it is more expensive to handle, because it taken longer for them to load, and the equipment is idle longer.

Through business that is handled on local trains is business picked up at local stations.

Q. But I am assuming that the business on the local trains would be increased 50 per cent, of the same character of freight as state freight, so it would be loaded and unloaded, or picked up, just the same as the state freight is.

A. It would be practically the same.

Q. Then the increased cost would apply just the same to the interstate as to the state freight.

A. Yes sir, just the same.

Q. What percentage is the entire state freight in the state of Missouri, as compared with the entire interstate freight, handled by the Missouri Pacific Railway System, in the opinion you have given?

A. That would be a hard matter for me to give an opinion in regard to that. I should say that 12 or 15 per cent of their business would be state business, or 10 to 12 per cent.

Q. And all the rest through business?

3830 A. Yes sir, all the rest through business.

Q. Then about 88 per cent would be interstate business?

A. Yes sir, 88 or 90 per cent.

Q. In your opinion as to the increased cost of the state business, you were taking into consideration entirely the cost of the service

rendered by the company in the one case as compared with the cost of the service in the other case, I believe?

A. Yes sir.

Q. The rates or revenue received for the different classes of freight would not affect the cost of doing the business in each case.

A. No sir.

Q. That is an entirely different matter and would affect only the question of the profits that the company would make on each class of freight?

A. Yes sir.

Q. There is a large amount of state freight business done in carload lots on through trains, isn't there?

A. There is some.

Q. Freight that is carried across from one of more divisions, in carload lots, is usually carried on the through trains?

A. Where it originates at the terminal. For instance, freight originating at St. Louis, or at a distant point within the state, is carried on a through train to where the way freight will take charge of it, and distribute it.

Q. And that rule applies equally to interstate freight?

A. Oh, yes.

Q. There would not be any great increase of cost in hand-
3831 ling that class of state freight, except what would result from the terminal cost, would there?

A. That is all, and——

Q. Such as was handled in carload lots on through trains?

A. There is a large amount of through business, you know, that ends where the through trains end, at large centers, for instance. Take the case of Kansas City——

Q. What is that?

A. There is a large amount of freight handled in through trains, through business, that ends at large centers, where it is not distributed by the way freight trains.

Q. And there is quite a good deal of state freight that goes from one large center to another?

A. Yes sir, but not in the same proportion.

Q. But in that case, to the expense it is shipped in that way, there would be practically no increased cost to the railroad company?

A. About the same, yes sir.

Q. Now in the matter of terminal cost, I understood you to say that the first class of interstate freight designated by Mr. Hagerman would have no terminal cost in this state?

A. You mean the business originating outside of the state, and ending outside of the state?

Q. Passing through.

A. Yes sir. No terminal cost.

Q. There would be some terminal cost in connection with such freight, wouldn't there? For instance. If it were delivered by another road here in St. Louis to the Missouri Pacific Railway, there would be *Railway, there would be* a terminal cost of putting
3832 that car, supposing it was a carload, of interstate freight into the through train?

A. Oh yes, there would be some yard expense.

Q. And about the only difference in the cost in that case, of a car that originated here, the cost of setting the car on the unloading track in the case of state freight, and then receiving it from the unloading track and putting it into the train: while in the other case the car would be received on what is called a "delivery track" and put into the train.

A. You would be at an additional expense of billing it, if it originated within the state. The station expense would be the extra cost in that case.

Q. Isn't through business frequently rebilled at St. Louis?

A. Yes sir. But as a rule the through business is on through billing nowadays.

Q. A good deal of it is rebilled?

A. Some of it is, but most of it is on through billing.

Q. You said the second class of interstate freight would have no cost except one terminal charge?

A. I referred in that case to where the business originated on one line and went through and was delivered at a station on another line.

Q. If state freight originates in the same manner, there would be only one terminal cost?

A. That is all.

Q. Chargeable to that class of state freight?

A. Yes sir.

3833 Q. So there would be no difference between the two classes on that score, unless the interstate freight of that class was a much larger percentage compared with the total, than in the case of the state freight.

A. With state freight exclusively, there would be two terminal charges, the yard charge, and the billing charge. And where it was delivered outside of the state, there would be some expenses, same expense except that one would be outside the state and one inside the state.

Q. The one making it an element of increased cost is that one terminal in the case of the interstate shipment is in the state, and one outside of the state; your theory is that the terminals are usually further apart, and the haul is longer in the case of the interstate shipment than in the case of the state shipment?

A. Yes sir, and the volume of business in your through business cuts down the expense per ton, really.

Q. In a shipment of the same commodity, and in the same quantity, as the interstate shipment, in which the haul would be the same distance, as a similar shipment of state freight, there would be no difference on the cost in that case?

A. No sir, practically none.

Q. None, though the two terminals in one case were in the state, and in the other case one was in the state and one was outside of the state.

A. Just about the same.

Q. About what percentage would you say of the state carload

freight handled on through trains would be to the state car-
3834 load freight handled on local trains?

A. I should say about 90 per cent of the state business is handled on way freight trains, carload business.

Q. Carload business?

A. Yes sir.

Q. I understood you to say, Mr. Bethard, that there was practically no interstate less than carload business done on the local trains, way freight trains?

A. Interstate carload business.

Q. Interstate less than carload business?

A. There is very little of that. Of course there is some, where your way freight trains double over from one state to another.

Q. But not enough to take into consideration in making your estimate?

A. Hardly so.

Q. Well, it is a fact that a good many shipments from the large commercial centers, even outside of the state, are made to small towns throughout the state of Missouri, isn't it?

A. Yes sir.

Q. And those shipments would in all cases be interstate shipments?

A. Yes sir.

Q. And they would not be carried on through freight trains, the entire distance, if originating in Missouri, as a rule?

A. Well, in most cases they distribute pretty close to the line, as a rule.

Q. If it was carload freight it would be carried to the last freight division before the town to which it was destined, probably on the through train, wouldn't it?

3835 A. It would be carried to a station where the freight division commences, and on which this town was located.

Q. And from there it would be carried on what kind of a train?

A. On the way freight train.

Q. And interstate freight, such as there was on the way freight train, less than carload lots, would always be delivered by way freight trains?

A. Where that business originates outside of the state, in less than carload lots, it usually comes to us in small quantities. That is, in large territories, where it has to be rehandled as a rule, where we receive it from the road bringing it to us from outside of the state.

For instance, you take St. Louis, get a carload of freight from Chicago to be distributed through Missouri, coming to us at St. Louis. That car will contain freight for all points in Missouri. We have to rehandle it and put it into the same cars and commence distributing it from here.

Q. You would call that, because it broke at St. Louis, you would call it from here on to its destination "state freight" would you?

A. No sir. What I was trying to explain about was this: that it is seldom that you get a car of less than carload freight, from an-

other state that can be handled on a through train, to a different point, where it will commence distributing by way freight trains, for the reason that there is not enough of it to justify running that one car with that much freight in it. You must rehandle and distribute your freight at the border. So it is mixed up with your state freight.

3836 If we got a car from Chicago to be distributed through Missouri, we handle it in our freight house, and mix it up with the freight received at St. Louis, and make up carloads to be distributed to the different divisions.

Q. That would mean that practically all the less than carload freight destined to points in Missouri would be handled on local or way freight trains?

A. Of course, some of it would not be, but as a rule most of it is distributed by way freight trains, yes sir.

Q. Would there be any increased terminal cost between the interstate less than carloads that you have referred to, in your last answer, and the state less than carload business.

A. No sir, it would be the same. That is, with this exception, that probably we would not have any billing to do. We usually have to rehandle it.

Q. If it was reloaded in with state freight at St. Louis, say with freight that came from east of the river, it would require the same expense of billing as the state less than carload freight originating at St. Louis?

A. That business is usually billed through.

Q. Wouldn't it have to be rebilled, if put into another car?

A. No sir.

Q. What would you say as to the terminal expense of a shipment from New York to San Francisco, as compared with a shipment from St. Louis to Jefferson City; You say, the purely terminal cost in each case would be the same.

A. Well, no, it would not be the same—you mean the loading and billing expenses?

3837 Q. What you would include in what is called the terminal expenses?

A. Yes sir, it would be about the same.

Q. And in that case the shipment from New York to San Francisco is passed through many terminals.

A. Yes sir.

Q. And it would receive some terminal service in each one it passed through?

A. Some yard terminal service.

Q. And you would estimate the terminal cost in each case would be practically the same?

A. The originating and delivering terminal expense would be about the same.

Q. But I wanted you to take into consideration all the terminal costs that would attach in the entire distance shipped.

A. Oh, there would be a terminal cost at every train division in that case. Chicago or New York to San Francisco.

Q. What would be the terminal cost of the intermediate terminals, as compared with the originating terminal, or the terminal at the destination of the freight?

A. The intermediate terminals?

Q. Yes, about what would be the proportion of the cost?

A. Oh, much less for the intermediate terminals.

Q. About half?

A. Less than half.

Q. About how many terminals would freight in a shipment that distance pass through—New York to Frisco.

A. I don't know, I couldn't tell you.

Q. Could you give any estimate as to the number?

3838 A. No sir, I don't know how they run.

Q. In passing through Missouri, how many terminals would such a shipment receive service from?

A. I think the Missouri Pacific have but one, or I don't think they have any intermediate terminal between here and Kansas City.

Q. Haven't they one at Sedalia?

A. Oh yes, that gives them one at Sedalia.

Q. There would be the three terminals, St. Louis, Sedalia and Kansas City, in this state?

A. Yes, sir.

Q. What would be your estimate as to the amount of the terminal cost in freight at the point of origin and at the point of destination, taking each terminal separately?

A. It is a hard matter to figure. You average it, if you will, to get it correctly you must know the classes of freight. I should say it would run $6 to $7 a car.

Q. That would be all the freight on an average?

A. Yes sir.

Mr. HAGERMAN:

Q. Some would be higher?

A. Yes sir, I guess some of it would run $10, $12 or $15 a car.

Mr. KENNISH: $12 to $15 a car for many?

A. No sir, I should say that it would average, $6 or $7 a car.

Q. You said that in your opinion the cost of doing the state business would be four or five times that of doing the interstate business: In that opinion, you were basing it upon the quantity, the tons per mile handled in each case?

3839 A. No sir, I was basing it, of course, upon the volume of the business. The loss of train and crew tonnage.

Q. I am not speaking now as to the reasons you gave as to wh-t you thought the state freight would cost more than the interstate, but the basis upon which you were making your estimate. You were estimating that for a given amount of state freight in tonnage, it would cost about four or five times as much for the Missouri Pacific Railway to handle that freight as an equal amount of the same kind of freight which was interstate freight?

A. Yes sir.

Q. So that you are basing your opinion upon the ton per miles carried in each case, or the tonnage handled in each case.

Mr. HAGERMAN: Your question assumes that the same amount was carried?

A. I was figuring on the volume of business.

Mr. KENNISH:

Q. You were figuring that to handle a given volume of business as state freight, it would cost the road four or five times as much as to handle an equal volume of the same class of freight as interstate freight: that is the basis of your opinion, isn't it?

A. Well, yes, the basis of my opinion was that the state freight was more expensive by reason of the less volume. Given the same volume that would leave more expense attached to it also.

Q. I know that was your reason: but in saying it would cost four or five times as much to do state business, weren't you assuming that the state business in a given case would be of the same kind of business, the same kind of freight, and all
3840 of equal value as to the tonnage, as in the case of an interstate shipment. Or, in other words, take the entire tonnage of the state business in the state of Missouri, and compare that with the entire tonnage of the interstate business in the state of Missouri, and you would say it would cost the company four or five times as much to do the business of the state tonnage as the interstate tonnage?

A. Yes sir.

Q. Without reference to the revenue received in either case?

A. Yes sir.

Redirect examination.

By Mr. HAGERMAN:

Q. Your idea about it is, that any increased revenue would be more than offset by the loss of tonnage, alone, wouldn't it?

A. Yes sir, I should say that is true.

Q. When you gave these percentages of the different classes of business did you have any particular figures in mind, or just an estimate?

A. That is just an estimate. I haven't made any figures at all. Just from my knowledge of handling the traffic in our line.

Q. And your opinion of four or five times the cost is based upon your general experience, without taking any particular figures into consideration?

A. That is all.

The MASTER: In the classification of interstate freight made in Counsel's first question to you, that is to say: class one be-
3841 ing interstate freight that originated and terminated, both, outside of the state, but passed through the state; and class 2, being interstate freight that either originated or terminated in the state only; have you any idea and can you give an opinion as to the relative amount of interstate freight that passes entirely through

the state, as compared with that which either originates or terminates in the state?

A. No sir, I could not enlighten you upon that.

Recross-examination.

By Mr. KENNISH:

Q. Of the first class of interstate, viz: that which passes entirely through the state, some of that business would be done on what is called local trains, wouldn't it?

A. Not very much of it, no sir.

Q. Would there be any?

A. Well, there are instances, of course, where some freight would be handled that way, where your connection with the train on another line bringing business to you from another state, would be a way freight train. We have cases of that kind, connecting on the branch line.

Q. Take a case like this: a shipment of freight of that class which passed entirely through a state, say, a carload of freight originating at a point east of Missouri and destined to a point in Kansas, so it would be carried on the Joplin branch of the Missouri Pacific Railroad: and from that branch it would be carried on the local train to its destination in Kansas.

Mr. HAGERMAN: Let me see if I understand that. Go on a through train as far as Joplin, and then go on the way freight across the line?

3842 Mr. KENNISH: Go on the through freight train from say St. Louis to a point on the Joplin Branch where it would be taken by the way freight train and carried to its destination in the state of Kansas?

A. There are cases of that kind.

Q. That would be through freight?

A. Yes sir.

Q. And yet it would be carried quite a way on the local train?

A. Yes sir.

Q. You have no idea of how much freight of the through class would be carried on local trains?

A. No sir.

Mr. HAGERMAN: You mean, Mr. Kennish, it would be carried part of the way on the local train?

Mr. KENNISH: Yes.

A. I cannot give you any idea.

3843 S. L. RAINEY, a witness of lawful age, being duly produced, sworn and examined, on behalf of the Complainant, testified as follows, to-wit:

Direct examination.

By Mr. HAGERMAN:

Q. Please state your name?

A. S. L. Rainey.

Q. Your business is what?
A. At the present time I am in the special service of the General Manager's office of the Frisco Railroad.
Q. What is the nature of your duties?
A. Duties assigned me in different departments of the railroad.
Q. You are a sort of special assistant to the General Manager in the performance of his duties?
A. Yes sir.
Q. And the General Manager is whom?
A. Mr. Nixon.
Q. How long have you occupied that position?
A. Only a few months.
Q. What had been your railroad experience before that?
A. I have been in the railroad service for thirty years.
Q. In what capacities?
A. I started as water boy in the construction of railroads, served as telegraph operator, agent, train dispatcher, yardmaster, trainmaster, superintendent, chief clerk to the general superintendent, and general superintendent.
3844 Q. How much of that time has been upon the roads in Missouri?
A. About fifteen years.
Q. And upon what roads in Missouri has your service covered?
A. The Wabash and the Frisco.
Q. Are you familiar, in a general way, with the Missouri Pacific system of roads in Missouri?
A. In a general way, yes; I am not entirely familiar.
Q. I don't mean in detail; but you know the class of country, and how does that compare, in a general way, with the expense of operation, with what you have seen on the Wabash and the Frisco?
A. They are similarly located, and the costs should be somewhere near the same.
Q. The conditions in that respect are practically the same?
A. Yes sir, practically.
Q. What, if any, reason is there for the cost of doing the state business exceeding the cost of doing the interstate business, in a general way. I do not care about the details. What are some of the elements that enter into it?
A. The terminal expense has something to do with it.
Q. That is, in the State business there is some extra cost of terminals?
A. Yes sir.
Q. Now, take some of the other items.
A. The extra cost of doing a particular business between given points, between certain hours.
3845 Q. What do you mean by that?
A. The local trains must necessarily do their work as much as possible during the day time. The road is divided into what they call working divisions, about one hundred to one hundred and twenty-five miles distance. That is supposed to be as much as one crew of men can handle in ten or twelve hours. They are termed

"local crews". They are paid higher wages than the through crews. One extra man is given to this crew to help do the work. As a rule, they are given lighter engines, in order to move more quickly, and do the switching on the industry tracks, which are not always located on easy grades, or on easy curvature. They are also given lighter trains, so that they can move faster, and start quickly.

Those trains also handle the light carload freight, L. C. L., as it is termed, and cannot handle as much as a through train, because of their stopping and starting so often.

Q. What about the long and short haul feature?

A. That naturally enters into it, because a train starting out of St. Louis with the tonnage usually given such a train, sets out cars or freight at different points. At such points, they do not always have freight that they can pick up and keep their train to its full capacity.

Q. So in the journey, from one end to the other, they would have lost considerable in the shortness of the haul?

A. Yes sir.

Q. What is the difference in tonnage, as between some of these state shipments, and interstate shipments—that is, the lost and waste tonnage?

3846 A. In Missouri, I think the average waste tonnage, or tare of all trains, amounts to about sixty-five per cent. In other words, on all the business handled, we get only about thirty-five per cent net tons.

Q. How is that divided, as between state and interstate business, in your judgment? Where would be the great loss?

A. The great loss falls on the local trains, and on the branch roads.

Q. Take the branch roads, for instance, how is that business, as compared between doing state and interstate business, as a rule?

A. I should say ninety per cent of it is state business, on the branch roads.

Q. Have you any idea, take it upon your local, as distinguished from your through trains, as to how the business would be divided—in a general way? Take it on the local, how much of that would be state business?

A. Oh, I should say fully ninety per cent of it would be state business.

Q. And then upon the through trains, what would be your idea about it, as a whole, taking into consideration the branch roads and all?

A. That is handled differently by different corporations. Some roads, and particularly the Frisco, handle nearly all of their state business on the local trains. Not all of it, but a large per cent. And the through trains handle very little.

Q. But they do, each class of trains, handle some of the other class of business?

3847 A. Yes sir; and it is difficult to make any estimate of the amount.

Q. So, after all, when you come to get down to the question of an opinion, it is a question based upon actual experience, and the best judgment you can form?

A. Yes sir.

Q. Is there a system for ascertaining the cost per ton per mile?

A. Yes sir. That is the average used by most railroads in determining the cost of handling through business.

Q. It is based upon averages?

A. Yes sir.

Q. Would it be possible, without knowing the amount of space that was wasted, and the character and quality of the shipment made, to compare a state shipment with an interstate shipment, or a local with a through shipment, on that basis?

A. I think not.

Q. You would have to know the amount of waste tonnage before you could do it?

A. Exactly. You would have to know the amount of space occupied by the different shipments, and the difficulties encountered in handling the state and interstate business.

Q. You understand this classification, of which different witnesses have spoken, as to the interstate business, Class 1 of which is business which originates and terminates outside the state, but passes through the State. The other class is that which originates outside the State, and terminates in the State, or originates in the State and terminates outside the State?

3848 A. Yes sir.

Q. Would you have an idea how to answer the question which was put to Mr. Bethard, as to what proportion of interstate business was in Class 1, and what in Class 2?

A. It is impossible to answer that.

Q. But you know the difference between those classes of business in practical railroad operation?

A. Yes sir.

Q. State business is that which originates in the State and terminates in the state: you understand that?

A. Yes sir.

Q. Taking everything into consideration, how much more, in your judgment, would it cost to do the State business than it would to do the interstate business?

A. That would also be an estimate. I have often thought upon that subject, and thought it would be three or four times as much.

Q. That would be your best judgment, taking everything into consideration?

A. Yes sir.

Cross-examination.

By Mr. JOHN KENNISH:

Q. Answering the question, that you took everything into consideration, by "everything" you meant everything that had any bearing on the cost of carrying the respective classes of freight?

A. Exactly.

Q. Nothing that did not appear on the cost of the service

3849 would be taken into consideration in your estimate?

A. No sir, I believe that is what you are trying to arrive at, is the cost of handling the business?

Q. Yes. And the revenue received for the different classes of freight, would throw no light on the cost of handling the freight. That would go into the question of profit and less in doing the business of each class, rather than throwing any light on the cost of the service.

A. The revenue would have nothing to do with the cost of handling the business, except as to the bulk. Light business of course would be more expensive to handle than heavy business.

Q. But as to a given shipment, one being state and the other interstate, and being equal in amount and of the same commodity, the rates received would have nothing to do with the cost the company would sustain or incur in doing the one or the other kind of business.

A. The rates under such conditions would have no bearing upon the cost.

Q. You said, I believe, that you would give no definite estimate as to the percentage of through, first class interstate business as compared with what we call the second class of interstate freight.

A. No sir, I cannot give you an estimate.

Q. You understand what those classes apply to?

A. Yes sir.

Q. The first being such freight as would pass entirely through the state: That is what you understood?

A. Yes sir.

Q. And the other, such as would originate or terminate in
3850 the sta-e?

A. Exactly.

Q. You have some general idea, probably, as to the relative proportions of those two classes, haven't you?

A. I don't believe I have. They would be different on different railroads.

Q. You have never been in the service of the Missouri Pacific Railway?

A. No sir.

Q. But you have some general idea of the Missouri Pacific line?

A. General.

Q. Have you any opinion as to the percentage of those two classes of interstate freight on the Frisco line?

A. No sir, I would not venture an opinion.

Q. That would enter very materially into an estimate that you would make as to the cost of doing the interstate business, wouldn't it?

A. Well, two given shipments, one state and one interstate, you mean?

Q. No sir, the two classes of interstate business referred to. I will ask you this question, Mr. Rainey: It would not cost the railroad company much less to do the first class of interstate business than the second class of interstate business? Or, would you think the cost would be about the same in either case?

A. There would be a little difference in favor of the through business.

Q. But it would be very slight, would it?

3851 A. That would depend upon the facilities furnished at the state terminal, for the second class business.

Q. The second class business?
A. Yes.
Q. What difference would that make?
A. The tracks that are furnished at such state terminals——
Q. By that you mean, in the second class there would be one terminal, while in the other there would not be a terminal charge: Is that it?
A. That is it.
Q. But there would be some terminal charge even in the first class?
A. Yes sir.
Q. You heard Mr. Bethard's testimony, in which he stated that on the first class freight, probably three terminal services would be needed in passing entirely across the state of Missouri, from St. Louis by way of Kansas City.
A. That is on the Missouri Pacific Railroad, yes sir.
Q. Yes, that is the road we are talking about: What would you say would be the relative cost of the use of the three terminals in the first class of interstate freight as compared with the terminal cost in the second class?
A. There would be very little difference.
Q. That is, the terminal cost would be about the same in either case, so that would not be a reason for the company incurring a greater expense in handling the second class interstate than the first class, would it?

3852 A. Only as I stated, that the terminal for the second class, freight would cut some figure, because you are furnishing more, and a different kind of facilities, for handling the business.

Q. What would you say the terminal cost at the point of destination, or the point of origin of the second class interstate freight would be, per ton?
A. Per ton?
Q. Or, per car?
A. It costs from $2.50 to $5.00 to handle a car to and from an industry.

Mr. HAGERMAN:

Q. That is only one element: What he wants is the entire cost.
A. The terminal cost, or the cost of handling cars in a large yard varies at different points, owing to the different expenses.

Mr. KENNISH:

Q. Taking it on the average, Mr. Rainey, taking it on the average for all the interstate business done by the Missouri Pacific Railway in the State of Missouri, on the second class of interstate freight, what would you say the terminal cost would be, per ton?
Mr. HAGERMAN: That would be one terminal.
Mr. KENNISH: At the point of origin or destination, of that class of freight?
A. Do I understand one terminal?

Q. One terminal would be all there could be in that class, or there might be more than one terminal in that class of second class interstate freight?

A. Yes sir, there could be numerous terminals, the same as any first class shipment.

3853 Q. Well, now, considering only the cost of the terminal at the point of origin or destination, in that class of freight, what would you say that cost would be?

A. At the point of origin it would be not less than $2.50.

Q. Per car?

A. Per car.

Q. Would you say that would be the average terminal cost for that kind of freight?

A. Yes sir.

Q. And at the point of destination, what would you give as your opinion as to the terminal cost?

A. About the same.

Q. What would you give as to the terminal cost in the case of the terminals through which the freight would pass, not being the terminal of origin or destination?

A. That is the average also, and would be governed entirely by the expense of such terminals varying all the way from 25 cts. to $1.00 a car.

Q. What would you give as the average cost?

A. 50 cents.

Q. What would be your opinion as to the terminal expenses at a large station, as compared with terminal expenses at a small station?

A. At a small station it would be about one-third that of a large station.

Q. A small station would be one-third — a large station?

A. Yes sir. Now I am not speaking of terminals, I am speaking of stations. You ask of stations, didn't you?

3854 Q. Yes, between large terminals and small terminals I said. Terminals at small stations. It would be a terminal just as much at a small station as at a large station.

Mr. HAGERMAN:

Q. What distinction do you make between station and terminal?

A. He asked stations. Maybe I did not understand his question. If he meant the point of origin of one of these shipments then it is a different proposition. But he made it distinctly stations, as I understood it.

Mr. KENNISH:

Q. I understood you to say there would be practically no difference in the terminal expense, whether the terminal was the point of origin or the point of destination of the shipment.

A. Of this second-class inter-state freight, yes, sir.

Q. On any class, would it? In any case the expense at the point of origin——

A. The point of origin of a first-class shipment, and the destination, might be on the first-class shipment entirely different from the point of origin and the point of destination on a second-class shipment.

Q. Take it in the second-class then: You say that in that class there would be practically no difference whether the terminal was that of the origin or the destination of the freight?

A. Of the second-class?

Q. Yes.

Now what I intended to ask you was, whether or not the terminal expenses in that case, on the freight, would be larger or smaller at a large terminal as compared with a small
3855 terminal, or I might say a terminal at a large commercial center, as compared with a terminal at a small town?

A. That is governed entirely by conditions, owing to the amount of business handled at the small terminals, where the tracks are ample and the business not heavy; a small terminal is ordinarily handled cheaper than a large one. Although there are conditions that may make a large terminal less expensive than a small one, because of the easy handling of cars and the character of the cars handled.

Q. Taking into consideration all these conditions, on the average, as applicable to the second-class of inter-state freight, what would you say would be the relative cost at the large terminal compared with the cost at the small terminal?

A. That is, the originating point as against the destination?

Q. You said there was practically no difference in the terminal cost on that class of freight, whether it was the terminal of origin or of destination: What I meant is, to compare the terminal cost of terminals like St. Louis or Kansas City with the work at terminals on the railroad, along the small towns and stations to which the freight is delivered?

A. Yes, sir. Well, if you will allow me to express it in my own way, possibly I can make it clear to you.

Mr. HAGERMAN: You are comparing between St. Louis and some place out on the line, like Pacific, for instance?

3856 Mr. KENNISH: I think the question is plain enough.

A. Take first-class freight business: A carload is offered for shipment through the State of Missouri at St. Louis. It would have a terminal charge at St. Louis and the intermediate, whatever it was, and at Kansas City, where it would go outside the State. Those are what you want. Those are the expenses you want on that class of shipments?

Q. We were speaking of the second-class of inter-state freight entirely.

A. We will take the second-class, originating say at Hermann on the Missouri Pacific Railway. I said that the cost of switching that car to and from an industry would be $2.50, at least $2.50.

Q. Then you would estimate the cost at a small town at about the same as you would at a large terminal, as I understand you.

A. For a car terminating, yes, sir.
Q. Didn't you say there would be no difference?
A. Yes, sir, I will say that.
Q. Didn't you say there was no difference between the origin and destination expense?
A. Yes, sir, I will say that there is practically none.
Q. Then your opinion is that the cost would be about the same at the small terminal as at the large terminal.
A. Yes, sir, on that class of freight.

3857 Q. And the cost in each case would be not less than about $2.50 a car?
A. Yes, sir, that is my estimate.
Q. You would consider the terminal cost in a car originating at St. Louis as about the same as the terminal cost on a car originating at Sedalia or Hermann?
A. Yes, sir. The cost of handling, yes, sir.
Q. The terminal cost, I said.
A. Yes, sir.
Q. Have you any opinion as to the percentage of State freight carried on a through train on the Missouri Pacific Railway in this State?
A. No, sir, I cannot say on the Missouri Pacific. That varies according to the method of handling the business.
Q. But as it is handled, and has it has been handled by the Missouri Pacific Railway Company, would you give any opinion as to the percentage of State freight as compared with inter-state freight carried on through trains?
A. No, sir.
Q. No estimate at all?
A. No, sir.
Q. Have you any opinion as to the percentage of inter-state freight of the first-class, as compared with the second-class of inter-state freight, handled by the Missouri Pacific Railway Company in the State of Missouri?
A. No, sir.
Q. Which would you think was the larger percentage, the first-class of inter-state freight or the second-class?

3858 A. The first class.
Q. How much larger would you estimate that would be, than the second-class?
A. Oh, it would be only an estimate. I have no idea of the amount of business they handle. I never was over the road in my life.
Q. You think it would be larger?
A. Yes, sir, I should think so.
Q. But you would not give any estimate as to the difference in the two?
A. No, sir.
Q. What is your opinion as to the percentage of the State freight business on the Missouri Pacific Railway compared with the entire freight business on that road, down in Missouri?

A. That would be an estimate, only. I should say 20 to 25 per cent.

Q. On the ton mile basis, that is there would be about 20 per cent?

A. Of the total tonnage handled.

Q. Of the total ton miles of State business as compared with the total ton miles of inter-state business?

A. Well, I might have that a little high. I would say 20 to 25 per cent.

Q. 20 to 25 per cent?

A. I should think so.

Mr. HAGERMAN:

3859 Q. You said tonnage and he said ton miles. Is there any difference in the two expressions as to what your 20 to 25 per cent applies to?

A. I don't believe there is between our two meanings. I think we mean the same. Ton miles is one ton handled a mile.

Mr. KENNISH: In giving the reasons you did for your opinion as to the increased cost of handling State business as compared with inter-state business, you gave the terminal cost as increased in the case of State freight, and the increased by reason of the handling of local trains on which the State business was largely done: Would those two items include all of the increased cost on which your opinion was based, the terminal cost which would represent the long as compared with the short haul, and the increased cost by reason of the State freight being handled largely on local trains as compared with through trains: There would be no reason outside of those two, would there, Mr. Rainey?

A. No, sir, not if I understand what you mean by "handling of local trains": Taking into consideration the loss of cars, the greater length of time on the State business than on the through business.

Q. That would all grow out of the increased cost of handling local trains, wouldn't it, as compared with through trains?

A. It would enter into that item. I simply wanted to know if you understood that entered into it.

Q. It would, wouldn't it?

A. Yes, sir.

3860 Q. Then your opinion necessarily assumes that the great bulk of the State business is done on the local trains and very little of the inter-state business is done on that kind of train?

A. Yes, sir.

Q. What would you say is the percent of inter-state business done on local trains as compared with the percentage of State business that is done on that kind of train?

A. I should say 90 per cent of it would be State business.

Q. And 10 per cent inter-state business?

A. Yes, sir.

Q. And what percent would you say the less than carload business on the local trains was of the entire business of that train?

A. 40 per cent.

Q. Your opinion is that 40 per cent of the tonnage on the local train would be less than carload business?

A. That would be my estimate, yes, sir.

Q. And you would divide that 40 per cent as between State and inter-state?

A. 95 per cent of it would be State business.

Q. And 5 per cent only, inter-state business?

A. I should say so, yes, sir.

Q. I believe you said that on through trains you would estimate that 90 per cent would be inter-state business, did you?

A. Yes, sir.

3861 Q. And 10 per cent State business?

A. Yes, sir.

Q. If the percentages of State and inter-state business done on the local trains varied from your estimate in the direction of increasing the amount of inter-state as compared with State business, it would change your opinion somewhat as to the increased cost of State business compared with the cost of doing the inter-state business, wouldn't it?

A. Not materially?

Q. Not materially?

A. No, sir.

Q. In your opinion was not the increased cost of the local trains the main reason why the State business cost more than the inter-state business?

A. Yes, sir, but there is so little inter-state less than carload business handled, that it would not make a very great difference.

Q. I believe you said there was 40 per cent of less than carload business, in your judgment?

A. I said State business. 5 per cent of inter-state. You were asking me the relative cost between less than carload State and inter-state, weren't you?

Q. I asked you what percentage of the total business done on a local train was less than carload business, and I understood you to say it was 40 per cent.

A. Yes, sir, 40 per cent.

Q. And then I asked you to divide that 40 per cent as you would in your judgment, between State and inter-state.

3862 A. Yes, sir, and I said 5 per cent.

Q. 5 per cent inter-state and 95 per cent State?

A. Yes, sir.

Q. And then I asked you if it would not make a difference in your opinion if you should ascertain that the percentage of inter-state freight handled on local trains was much larger than you gave in your estimate?

A. Even that——

Q. And I understood you to say you did not think it would make any material difference.

A. I do not.

Q. Suppose 50 per cent of the carload business done on a local train was inter-state and 50 per cent of the less than carload business

done on the local train was inter-state, would you still say it would not vary your opinion materially on the question of the increased cost of the State business?

A. As far as the less than carload business is concerned, it would make very little difference. On the carload business it would make a difference.

Q. You say it would make no difference in the less than carload business?

A. Very little.

Q. Isn't it a fact, Mr. Rainey, that the main increased cost of the local trains is because of the less than carload business done?

A. Yes, sir.

Q. And the time required in loading and unloading along
3863 at the stations, this class of freight: That is correct, isn't it?

A. Yes, sir.

Q. The less than carload business has to be loaded and unloaded by the employés of the company?

A. Yes, sir.

Q. While the carload business is loaded by the consignor and unloaded by the consignee?

A. Yes, sir.

Q. And the railroad is at no expense on either of those items?

A. No, sir.

Q. Then you say it would make no difference in your opinion as to the increased cost, so far as the less than carload business was concerned?

A. Very little.

Q. Why would it make any difference on the carload business?

A. Because you have not furnished at the terminal facilities for loading the inter-state carload business, and have not been at the expense of switching to and from such loading track. The inter-state car is delivered into certain parts of your yard and put into trains, while your less than carload business is, for instance, shipped from Chicago, destined to points all over the State of Missouri, loaded in one car. Such a car is placed at the platform and re-loaded, distributed into cars for distribution along the line.

Q. Then your answer would be about this, Mr. Rainey: That in
the case of the carload business, if it should turn out that
3864 50 per cent was inter-state and 50 per cent was State business, it would materially affect your opinion from that which you have given as to the carload business?

A. Yes, sir.

Q. Suppose that the inter-state carload business—just the carload business now—leaving out of consideration the less than carload business entirely—should be 63 per cent of the entire tonnage carried by the local trains; and the State carload business was 37 per cent only, then that would very materially alter your opinion, wouldn't it?

A. It would reduce the cost, yes, sir.

—. And reduce it materially, wouldn't it in your opinion? Because I understood you to say, Mr. Rainey, that you were assuming

that practically no inter-state business was done on the local trains, only about 5 per cent, I believe you said?

A. 10 per cent. Yes, that would make a difference.

Redirect examination.

By Mr. FRANK HAGERMAN:

Q. When you said the terminal cost was $2.50 to $5.00, what did you mean by that?

Mr. KENNISH: I believe the witness said at first $2.50 to $5.00 but finally gave his opinion, not less than $2.50.

Mr. HAGERMAN: Whatever you said.

A. I think I made the statement just what he has stated.

Q. $2.50 to $5.00?

3865 A. Yes, sir.

Q. What did you include in that?

A. The cost of switching a car from the holding track in the yard to an industry.

Q. Or from the industry back?

A. Yes, sir.

Q. Did you include any other terminal expense of any kind, except the mere act of switching?

A. I have not given that any—yes, that is what I had in mind when I gave my answer.

Q. Mr. Bethard was on the stand just a few moments ago and he said he made the average six or seven or eight dollars a car, or something like that?

A. Yes, sir.

Q. And then there are a lot of terminal services, like clerks' warehouses, investment in cars and equipment that is kept there—was anything of that kind included?

A. I was figuring on the terminal cost of switching: That is what I had in mind.

Q. Is that the same thing when you said 25c to $1.00, or 50c a car, for those shipments that passed through the State stopping at divisional points?

A. That is the idea.

Q. It was this mere switching service?

A. Yes, sir, I was not figuring on what you would call "station cost."

Q. What I want to know is, if you have any opinion on

3866 the cost per car, taking into consideration everything that enters into a terminal charge, everything that enters into terminal service at the station, which would include not only switching but everything else: If you have it, what is it and if not say so.

A. I don't believe we have any figures showing that cost or anything that would be reliable.

Q. These percentages you gave as between the different classes of business, were those percentages based on any particular figures or just a general estimate?

A. Just a general estimate. I never was over the Missouri Pacific in my life.

Q. That would include way and through trains and all classes of business?

A. Yes, sir.

Q. And would be your general estimate?

A. Yes, sir.

Recross-examination.

By Mr. KENNISH:

Q. As a railroad man you are familiar with what is meant by "terminal expenses," aren't you?

A. Yes, sir.

Q. Now I asked you what in your judgment would be the terminal expenses on these different classes of freight: Didn't you intend to give your answer in the sense that it included all costs and expenses that were chargeable to "terminal expenses," as that word is used in railroad circles?

3867 A. I probably did not make myself clear, but I wish to say that in making that statement I was figuring entirely on the switching cost.

Q. I will ask you to give your opinion as to the terminal cost, including everything that would be included under that term.

A. I believe I said that we had not any figures that would be of value in that respect.

Q. As to what?

A. That would be of value. I believe I stated to Mr. Hagerman that we did not have any figures that would be of value, including both those expenses.

Q. You cannot give an opinion as to that total terminal cost: I will ask you, Mr. Rainey, have you an answer for that question?

A. Nothing more than I have already stated.

Q. What did you understand as entering into "terminal costs"?

A. Terminal costs should include every item of cost in a terminal, including the switching service, supervision, and station service.

Q. Now will you give the part of that cost that was not included in your answer, as to the estimate you gave or $2.50 to $5.00 per car?

A. I was simply giving the item as I understood it at that time, of the switching expense, which meant the actual switching service and the supervision of such work as that.

3868 Q. That would include the engine used and the crews employed in the switching?

A. Yes, sir.

Q. And all that expense?

A. Yes, sir.

Q. And what terminal expense would it not include?

A. I did not have in mind the station service, the policing of the yards, watchmen and so forth.

Q. Do railroad companies divide terminal expenses into what is called "station service" and "yard service"?

A. Frequently.

Q. Would your answer include the expenses included in the term "yardage expenses"?

A. Yes, sir.

Q. But not the part included in the term "station expenses"?

A. Yes, sir, that is it.

Q. What would be the station expense alone on carload business?

A. It will run from $1.40 to $2.00.

Q. Of what would that consist, is what I intended you to answer. Station service in carload freight, what items would enter into that expense?

A. I will not give an opinion as to carloads.

Q. I was asking you in the case of carload freight, Mr. Rainey, as to what would be the station expense in that class of freight: Would there be any except the billing?

3869 A. Well there is a great deal that the carload must bear its proportion of.

Q. What would that be?

A. The entire station force, the sealing of that car, the watchman that patrols the yard.

Q. That would apply to all business, even the passenger business?

A. But this car must bear a proportion of that expense.

At this point recess was taken until two o'clock p. m.

3870 After recess on Tuesday, February 5th, 1905, the following proceedings were had:

H. ROTH, recalled, testified as follows:

Direct examination.

By Mr. FRANK HAGERMAN:

Q. Have you prepared an addition or supplement to Exhibit 5*a*, showing the passenger, mail, express, and miscellaneous earnings for 1905?

A. Yes sir.

Q. Is it in form to file as an exhibit?

A. No sir, it is not quite complete. It will be over here very soon.

Mr. HAGERMAN: I will offer in evidence this paper as Complainant's Exhibit 5*b*.

Exhibit 5*b* is in the words and figures following to-wit:

3871 Q. What was the amount of your passenger earnings, State and interstate?

A. Passenger earnings:

State	$1,325,234.12
Interstate	664,426.35
Total	$1,989,660.47

Q. And what were the mail and express earnings?

A.

State	$420,232.53
Interstate	210,652.52
Total	$630,885.05

Q. And the miscellaneous earnings, including what?

A. Other than mail and express:

State	$37,123.16
Interstate	33,294.91
Total	$70,418.07

Q. And the rentals amounted to what?

A. The rent earnings—you can not subdivide that between State and interstate. You can simply give the earnings.

Q. What are the total rental earnings?

A. $58,978.40.

Q. That you have not attempted to subdivide?

A. No sir.

Q. Why not?

A. They have no means of doing it. There is no basis for dividing it.

Q. So it would have to be divided upon some arbitrary basis?

A. Yes sir.

3872 Cross-examination.

By Mr. LADD:

Q. Have you prepared a similar statement for 1904?

A. No sir.

Mr. HAGERMAN:

Q. The argument about this statement came up after we got into the trial, and you did it as hastily as you could?

A. Yes sir.

Q. And in the Wabash case there was objection made to the year 1904 because of the abnormal conditions in that year on account of the World's Fair?

A. Yes sir.

Q. And our direction was to get these items for 1905?

A. Yes sir.

Mr. LADD:

Q. Last week it was said that there would be a corrected exhibit 14 filed: Has that been prepared?

A. Yes sir, but I haven't it over here now.

Mr. HAGERMAN: The paper will be prepared?

A. Yes sir, it is being prepared and will be here in the morning.

Mr. LADD:

Q. On Friday, or Saturday, perhaps it was, in connection with Mr. Doddridge's testimony, Exhibit 16 was offered, showing merchandise loaded at Jefferson City, and Exhibit 17 showing merchandise loaded at Sedalia: Have you copies of those now?

A. I know nothing about that now.

Mr. HAGERMAN: How about that Mr. Doddridge?

Mr. DODDRIDGE: I did not have but one copy of the state-
3873 ment referring to Jefferson City and Sedalia and that was filed as an original exhibit, but the extra copies have not been furnished to counsel.

Q. Mr. Roth, in your testimony last week, I think perhaps it was in cross-examination, you said something about the switching earnings at the Kansas City terminals being credited to Missouri: is that right?

A. That is right.

Q. You were to ascertain how much they amounted to.

A. I will give you those figures in the morning. They are not quite complete.

Q. Can't you give us those yet?

A. I can give them to you roughly, but I cannot give you the exact figures until tomorrow.

Q. You said last week something about the freight business handled at the Grand Avenue station at Kansas City?

A. You mean the business from the north to Kansas City?

Q. I don't know where it is from. I asked you what it amounted to: can you tell me that now?

A. Are we quite clear about that? Do you mean the whole of the earnings at Grand Avenue, or do you mean simply the earnings from business north of Kansas City?

Q. Yes.

A. I can give you that at the same time as I give you the Kansas City switching earnings.

Q. You can't give me that now?

A. No sir, not offhand.

Q. On the part of the railroad company there were offered in evidence some sheets on some forms which had been
3874 filled out, showing the merchandise loaded at St. Louis during certain days in October, 1905?

A. Yes sir.

Q. And we asked you to give us similar sheets, or I asked Mr. Doddridge for them, showing the merchandise loaded at St. Louis on December 15th, 17th and 20th, 1906, being Form 3092: have you that?

A. We have no Form 3092. There is the same thing, but under another form number. I cannot trace any Form No. 3092.

Mr. HAGERMAN: It seems to be on Form 4037.

Mr. LADD: Is it the same form?

A. Yes sir, it looks to me like the same thing.

Mr. LADD: I will offer this paper in evidence as Defendant's Exhibit 9*a*.

Exhibit 9*a* is in the words and figures following, to-wit:

3875 Mr. HAGERMAN: With the exception of the witnesses, Vice-President Gray and General Superintendent Higgins of the St. Louis & San Francisco Railroad, and with the privilege of introducing them before the testimony upon the same subject by the Defendant is required, the Complainant closes.

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3877 *Testimony for the Defendant.*

CHARLES S. LUDLAM, a witness of lawful age, being duly produced, sworn and examined on the part of the Defendant, testified as follows:

Direct examination.

By Mr. S. B. LADD:

Q. Give your name, age and place of residence.

A. Charles S. Ludlam; 40 years of age; New York City.

Q. Of what firm are you a member or connected with at present?

A. I am a member of the firm of Haskins & Sells, who are certified public accountants of New York City. We have branch offices in London, England, Chicago, St. Louis, Cleveland and Pittsburg.

Q. You may state if you will what has been your occupation, going back to your boyhood when you began to have an occupation.

A. I began to work for the Pullman Company as office boy in the Secretary's office, when I was 14 years of age. I remained with the Pullman Company for approximately two years; having been advanced to the position of bookkeeper of the capital stock records of the Pullman Company. I then went west on account of my health and went to work for the Atlantic and Pacific Railroad Company.

Q. Where abouts?

A. At Albuquerque, New Mexico, in the Auditor's office. I worked for the Atlantic and Pacific Railroad for approximately
3878 two years, possibly two and a half years. Then I went to Colorado Springs in the Auditor's office of the Colorado Midland Railway Company, as assistant general bookkeeper; subsequently I went into the Treasurer's office as general bookkeeper in the Treasurer's office.

I resigned that position to go with Mr. Haggerman, a capitalist at Colorado Springs, and was with him for some two or three years.

Mr. HAGERMAN:

Q. Did you say how long you were with the Colorado Midland as assistant bookkeeper?

A. I was assistant bookkeeper in the Auditor's office of the Colorado Midland for about a year.

Q. And then general bookkeeper?

A. General bookkeeper in the Treasurer's office of the Colorado Midland, for about one and one-half years.

Q. And then you went with Mr. Haggerman?

A. Yes, sir, then I went with Mr. Haggerman and was Accounting Officer and Auditor of some seventeen different companies, mining companies, irrigation companies, land companies, railway construction companies and operating railway companies.

Mr. LADD:

Q. For how long?

A. For about between two and three years. Then I went to Eddy, New Mexico, as Auditor of the Pecos Valley Railway and was in that position for about two years—or three years I think it was. I left there to go with Haskins & Sells in New York.

Q. When?

3879 A. In 1893 or 1894; the last of 1893 or 1894.

Q. And you have been with them ever since?

A. Yes, sir, something over twelve years.

Q. You may state in a general way what the business of Haskins & Sells comprises. What kind of services do they render?

A. As public accountants we examine the accounts of corporations, manufacturing corporations, railroad companies, banks, trust companies, commercial concerns, and do considerable municipal work; making examinations for offices of the companies and in some cases for the Directors of the company and in some cases for the Stockholders of the company. A great many of our examinations and investigations are made for bankers, for the purposes of investment, determining the values and earning capacities of different properties and different classes of business.

Q. You may state, so far as you can without betraying any confidence, what railroad companies, if any, Haskins & Sells are the General Auditors of accounts for. I mean by that, those companies whose accounts they audit regularly.

A. Those railroad companies whose accounts we audit and who publish our certificates as to the accuracy of their accounts, so our connection with those companies is publicly known, include the Philadelphia & Reading, The Lehigh Valley, the Louisville & Nashville, the Atlantic Coast Line, the Central of Georgia, the Cincinnati New Orleans, and Texas Pacific; the Atlanta and West Point, and the Western Railway of Alabama.

3880 Q. Did you mention the Louisville & Nashville?

A. I think I mentioned that. We do audit the accounts of the Louisville & Nashville, and a number of the small companies they control.

Q. In the auditing of those accounts, the accounts of those railroad companies, or of any of them, have you personally taken a part and been connected with it?

A. Yes, sir, I have personally made the examinations of, if not all, nearly all of those companies, at different times.

Q. I will ask you if Haskins & Sells have done any public work for the Government or cities or other municipal corporations?

A. Yes, sir.

Q. State a few of the more important ones. Have you done any work for the Government?

A. Yes, sir. Mr. Haskins and Mr. Sells were personally retained to re-organize the accounting department of the United States Treasury Department. We were also employed by the United States Government at the time of the occupation of Havana, Cuba, by the American Government, to examine the accounts of the City of Havana, for the purpose of determining the obligations, resources, income and expenditures of the City of Havana.

We were subsequently employed by the United States Government to make an examination and audit all the military accounts of the department of Cuba, which included the whole island of Cuba.

Q. How long a work was that, in connection with the
3881 Treasury Department at Washington?

A. That took about two years.

Q. To install the new system of accounting there?

A. A new system of accounting in certain of the departments.

Q. This work in Cuba for the Government, did you have anything to do with that, personally?

A. Yes, sir. I had charge of both pieces of work which our firm did in Havana, Cuba. I went there and gave it my personal attention. Each engagement took four or five months, and we had four or five men on each.

Q. What other public work of any importance have you been engaged in?

A. We have done work for the State of Missouri.

Q. Who was Governor at that time?

A. Governor Dockery.

Q. What was that work?

A. We were employed to make certain examinations into the finances of the State of Missouri.

We have done considerable work for the City of Chicago.

We were retained to investigate and adjust the special assessment accounts of the City of Chicago for a period from the time of the Chicago fire to April 30, 1901, about thirty years altogether.

Q. How long a job was that?

A. That took us something over two years; two and a half years.

3882 Q. Were you personally engaged on that work?

A. I personally had charge of it most of the time. I started the work and gave it my attention during the whole continuance of it, although I may not have been there steadily toward the close. We had forty to fifty men engaged on that work.

We were subsequently employed by the City of Chicago to install a complete system of accounting for the entire municipality. That took us about two years. We had quite a large force of men on that. That was done under my personal supervision and direction.

Q. Is that system now in use in Chicago?

A. Yes, sir. We were also retained to make an examination covering the accounts for four years, and install an efficient and modern system of accounting for the City of Houston, Texas, which we did. We had quite a force down there, for some time.

Q. Has your firm done any important work in late years, since the agitation regarding the management of life insurance companies, in connection with the accounts of any of those companies?

A. Yes, sir.

Q. What was it?

A. We were retained by Mr. Paul Morton when he was elected President of the Equitable Life Assurance Society, to make a complete examination of the results of operation for a series of years

back, and an investigation of the financial situation at that time.

3883 This was quite an extensive engagement, we were employed, jointly with Messrs. Price, Waterhouse & Co., who are chartered accountants of London, and have a branch office in New York. We had twenty or thirty accountants engaged on that work. I was in direct personal charge of our force.

I might say that the man who was right under me, our Mr. L. O. Fisher, has within the past few months been appointed General Auditor of the Equitable Assurance Society.

We were also employed by the Investigating Committee, consisting of Messrs. Truesdale, who is President of the Delaware, Lackawanna & Western Railroad, Mr. Fish who was at that time President of the Illinois Central Railroad and Mr. Achencloss of New York, to investigate the financial resources and the results of operations over a number of years back, of the Mutual Life Insurance Company of New York. We had a large force of men on that, thirty or forty I should say, for nearly a year.

We were also retained by the Investigating Committee appointed by the Trustees of the New York Life Insurance Company, of which Mr. Fowler, President of the New York, Ontario & Western Railway Company, was Chairman, to do similar work on the New York Life Insurance Company.

In the case of the Mutual Company we worked jointly with Messrs. Deloit, Plender, Griffith & Co., chartered accountants of London, England, with branch office in New York.

In the case of the New York Life Insurance Company we worked jointly with Messrs. Price, Waterhouse & Company, who were
3884 the firm of accountants with whom we also worked on the Equitable investigation.

Q. In the examination of the accounts of the New York Life and the New York Mutual Life Insurance Companies, did you take any part yourself, personally?

A. I took direct personal charge of both the Equitable and the New York Life investigations. The Mutual engagement was in direct charge of Mr. H. A. Dunn, one of the partners of our firm, who used to be Auditor of the Central Railway of Georgia.

The only attention I might say I gave to the Mutual case was in general conference with members of our firm, where we discussed the important matters relating to the accounts, of course, of all three of the companies.

Q. You had business of a similar character, I think you said, for banks and trust companies and for large corporations?

A. Yes, sir.

Q. For great numbers of them?

A. Yes, sir, for a large number of them.

Q. And are they large concerns with what might be said to be large resources?

A. Yes, sir—large and small, I might say. We also audit accounts of many small banks and trust companies as well as many large banks and trust companies.

Q. Your firm, I believe, was employed by the State of Missouri to investigate the accounts, so far as might be deemed neces-
3885 sary, of the Missouri Pacific and the Wabash Railroad Companies, as complainants in this litigation, weren't you?

A. Yes, sir.

Q. Who has been in the more immediate and constant charge of that investigation?

A. Our Mr. A. P. Taliaferro. He has had direct charge and given personal attention to the supervision of the work. In fact, a certain part of the work he has done himself.

Q. Where is his home?

A. His home is in New York. He was assigned to this work and instructed to give it his entire and undivided attention.

Q. Do you know what time he came here?

A. In June and I think on the 18th of June, 1906.

Q. And he has been here ever since?

A. Continuously, except when he has gone to Chicago and Kansas City to attend hearings.

Q. Hearings in this case?

A. Yes, sir, in this case.

Q. And he has given his exclusive attention to this work?

A. Yes, sir.

Q. And has had no other duty to perform?

A. Absolutely no other.

Q. He has had assistants under him?

A. Yes, sir, he has had as high as eight men under him. Eight is as high as he has had.

3886 Q. He brought his family with him, didn't he?

A. I think he did, yes, sir.

Q. Since this work commenced in June, I will ask you if you have been in St. Louis frequently and in the office, and have taken more or less part in this investigation Mr. Taliaferro has been carrying on?

A. Yes, sir, I have given a great deal of personal attention to it, and have come to St. Louis, and I also went to Chicago and Kansas City in connection with the hearings at those places.

And I have come to St. Louis a number of times and gone over a great deal of the work, and laid out many of the Exhibits we have prepared, showing as we think as precisely as the matter can be presented, the results of operations of the company.

Q. Mr. Taliaferro has taken your advice, or you have consulted together, regarding the methods to be pursued in order to get at the facts?

A. Yes, sir, we have kept in constant touch with each other. Even when I was not here, we have exchanged letters planning the work and discussing it.

Q. Have you attended most of the hearings in these three cases?

A. Yes, sir, I have attended most of them. There was one hearing in the Burlington case, I think in Chicago, and also one in St. Louis in the Wabash case, which I did not attend. And I did not

attend the first hearing in the Missouri Pacific case here in
3887 St. Louis. But where I have not attended the hearings I have read the testimony, so far as it has been written.

Q. You have already testified as a witness in the Wabash case and in the Burlington case, haven't you?

A. Yes, sir.

Q. How many men, besides Mr. Taliaferro and yourself, have been employed here in St. Louis and other places that were necessary, if you had to go to any other places, in the investigation of the accounts of the Wabash and the Missouri Pacific Railroad Companies, for the purposes of this case?

A. I think the maximum has been eight, besides Mr. Taliaferro and myself. Of course we have not had those eight on all the time. At first stages of the work we have had two, three or four, and at other times five, six, seven, or eight men. I think eight is the maximum we have had at any one time, and we have probably averaged since last June four or five continuously.

Q. I will ask you whether you have endeavored to be careful in the selection of your assistants; to engage men who are competent and trustworthy?

A. We always think we do that. We do not think we would stay in business very long if we did not. Because of course our capital is absolutely the accuracy and correctness of our work.

Q. You may state, Mr. Ludlam, whether during the progress of this investigation you and your assistants examined the freight business of the Missouri Pacific Railway Company for the month
3888 of October, 1905, so far as the State of Missouri might be interested in it?

A. Yes, sir, we made an examination of the waybills and records of the Missouri Pacific Railway Company for the purpose of determining the freight handled by the company during the month of October, 1905, within the State of Missouri.

Q. Did your investigations reach all the freight handled by the Missouri Pacific Railway Company which went over any part of its system in Missouri?

A. Yes, sir.

Q. No matter where it came from and no matter where it went?

A. Yes, sir.

Q. And what were your sources of information?

A. The waybills and records of the company. The principal figures were taken from the Auditor's freight journals. Wherever it was necessary to insure the accuracy of the work, we referred back to the original waybills.

Q. You were afforded access to these records and papers by the officials of the company, were you?

A. Yes, sir.

Q. And you obtained this information in the offices of the company?

A. Yes, sir.

Q. Were you able, from these sources, to separate this freight, interstate from the State freight?

A. Yes, sir.

Q. I will ask you what you understand to be interstate
3889 freight?

A. Interstate freight is that freight which touches some other State besides the State of Missouri.

Q. And also touches Missouri?

A. Yes, sir.

Q. What do you understand in this connection by "State" freight?

A. That business which moves from one point to another point within the State of Missouri, without leaving the State en route.

Q. Would the material at your hand enable you to separate the interstate freight, so as to show how much of it was in carload lots and how much in less than carloads?

A. Yes, sir.

Q. Could you separate the State freight in the same manner?

A. Yes, sir.

Q. Did you also learn the gross amount of revenue received from the freight business in the month of October, 1905, by the Missouri Pacific Railway Company?

A. Yes, sir. The gross amount applicable to Missouri.

Q. Did you also ascertain that part of the revenue which was earned by the interstate carload business and the interstate less than carload business; State carload business and State less than carload business?

A. Yes, sir.

Q. Did you also ascertain the number of tons of freight of the interstate carload business, interstate less than carload busi-
3890 ness, State carload and State less than carload business, separately?

A. Yes, sir.

Q. Did you also ascertain the number of tons one mile of each of those four classes of freight?

A. Yes, sir.

Q. Did you learn also the average amount received per ton mile for each one of those four classes?

A. Yes, sir.

Q. And the average length of haul of each of them?

A. Yes, sir.

Q. And the average amount received per ton for each of them?

A. The average received per ton and the average amount received per ton per mile.

Q. It was entirely practicable with the information furnished to you, to ascertain the different amounts, by the application of the necessary amount of work; is that right?

A. Yes, sir.

Q. Now, I will ask you, looking at the exhibit which I am going to offer in evidence presently as Exhibit 19, under the heading of the sixth column is the number of tons one mile: How do you ascertain the number of tons one mile? Explain the methods of arriving at that.

A. The number of tons one mile is determined by multiplying

the tonnage by the number of miles hauled. In other words, one ton hauled one mile would be one ton mile. One
3891 hundred tons hauled ten miles would be one thousand ton miles.

Q. Suppose in your investigation you found on a way-bill or record which was open to you, a statement of one ton of freight of some description hauled ten miles, that would be ten ton miles, would it?

A. Yes, sir.

Q. And another half ton of freight hauled twenty miles, that would be ten ton miles, would it?

A. Yes, sir.

Q. And the addition of these would be twenty ton miles?

A. Yes, sir.

Q. That *os* the way you get at it, is it?

A. Yes, sir.

Q. That is to say you took each shipment of freight by itself, ascertained how far it was hauled, and in that way found the number of ton miles which pertained to that particular shipment; is that it?

A. That is the principle. In preparing this statement, if there were four or five shipments between the same two stations, we would add those shipments together and then multiply them all by the distance between those two stations.

Q. But so far as shipments differed from each other in the length of the haul, each shipment and each haul was considered by itself, and the number of ton miles resulting from that shipment and all other shipments, were added together, so as to reach the gross number of ton miles; is that it?

A. Yes, sir.

Q. I see in the ninth column, under the head of "average
3892 length of haul, miles" the largest figure for instance is interstate carload freight 104 miles: How did you get the average haul? Explain that.

A. By dividing the number of tons one mile, as shown by column six, by the number of tons, as shown by column one.

Q. Suppose you find one ton that is hauled ten miles; you find another shipment of one half a ton hauled twenty miles; you find another shipment of two tons hauled fifteen miles,—all of the same kind of shipments, we will say. What is the average haul? In the first place, what is the total ton miles?

A. The total ton miles would be fifty.

Q. How many tons are there?

A. Three and one-half tons.

Q. And how many ton miles is the first one, ten miles?

A. Yes, sir.

Q. And the second one, twenty?

A. Ten miles.

Q. And two tons fifteen miles?

A. Thirty miles.

Q. That makes a total of fifty ton miles; is that right?

A. Yes, sir.

Q. Then how do you get at the average haul?

A. The number of tons being three and a half tons, I would divide the three and a half into the fifty, which would give 14 2/7 miles.

Q. That is the average haul?

3893 A. Yes, sir.

Q. And it is by that method you reach the result shown in column nine, is it?

A. Yes, sir.

Q. What did you ascertain to be the total weight in tons during that period of the interstate freight?

A. 459,501 tons.

Q. And the State freight was how much?

A. 151,033 tons.

Q. What was the percentage of the interstate freight to the total, in tons?

A. 75.26 per cent.

Q. And the State freight was the remaining 24.74?

A. Yes, sir.

Q. That is in weight, tons?

A. Yes, sir.

Q. Go to column seven: What was the percentage in ton miles of the interstate freight to the whole?

A. 86.02 per cent.

Q. And the State freight?

A. 13.98 per cent.

Mr. HAGERMAN:

Q. Let me see if I understand that. Of the total number of tons moved, regardless of distance, 76.26 represented interstate and 24.74 State freight?

A. Yes, sir.

Q. And this other column, No. 7, of the ton miles, that is a ton carried a mile, and then the percentage becomes 86.02 for

3894 interstate as against 13.98 for State?

A. Yes, sir.

Mr. LADD:

Q. The percentage of the total ton miles of interstate freight is larger than the percentage of tons of interstate freight?

A. Yes, sir.

Q. Now what is the cause of that?

A. The interstate freight is hauled farther on the average than the State freight.

Q. Now look at column nine: How far on the average is interstate freight of all classes hauled? That is to say, each ton of it?

A. 105 miles on the average.

Q. And on the average how far is each ton of State freight hauled?

A. 52 miles.

Mr. HAGERMAN:

Q. Right there, how do you get the less than carload freight go-

ing farther than the carload freight? It would appear to be the other way, that the carload haul would be the long haul.

A. I think that would be the opinion of all railroad men, and I think that is why their judgment is also wrong on the basis of the cost of the two.

Q. You think as a matter of railroad experience, that the less than carload freight is actually hauled longer than the carload freight?

A. I think less than carload is hauled farther than carload freight, although I think if the average railroad man was
3895 asked off-hand he would say that carload freight is hauled farther than less than carload.

Q. I see that is what your figures show.

Excuse me for interrupting, but it will save me asking so many questions on cross-examination.

Mr. LADD: I hope you will ask any questions you wish as we go along.

The MASTER: That would only apply, so far as the movement of the interstate freight is concerned, while passing into or through the State of Missouri?

A. Yes, sir.

Mr. HAGERMAN:

Q. I understand this does not represent anything outside of the State.

A. That is all.

The MASTER:

Q. That is why I asked the question. If you include the distance of all interstate freight, from the point of origin to the point of destination, the average mileage would be largely increased?

A. Yes, sir; but my opinion is that the relative proportion as shown here (indicating exhibit) between the length of the carload haul and the length of the less than carload, would not be changed materially.

Mr. LADD:

Q. I had not thought about asking you about that, but your opinion is, here is the Missouri Pacific system which runs as a system of its own, from St. Louis to Pueblo; across the State of Missouri to Kansas City from St. Louis is about 280 miles; from Kansas City to Pueblo, I presume, would be 600 miles, wouldn't
3896 it, Mr. Doddridge?

Mr. DODDRIDGE: Yes, sir, about 600 miles.

Mr. LADD:

Q. You are inclined to think that if the whole system was taken, St. Louis to Pueblo, and include in any estimate that would be made all the freight that would run through from St. Louis to Pueblo in carload lots, do you think that the average haul of less than carload freight would be greater than carload freight?

A. Yes, sir, the average distance. The reason for that is that

those people who buy in large quantities, buy at the near market. If you give the matter careful consideration that will appeal to anybody.

Coal, which is a large item in the tonnage of a railroad is never hauled as far as drygoods, for instance, which moves in less than carload quantities. Marshall Field, who ships in vast quantities, but mostly in less than carload quantities ships from Chicago to San Francisco and the City of Mexico and clear down in Texas, Oklahoma, Wyoming and Washington. But nobody in San Francisco would buy a car of coal in Chicago. And there would not be as much of the carload freight that would move long distances as there would be of the less than carload.

Grain, for instance, does not move long distances, as a general proposition. Wheat will move to the nearest mill.

Ice would not move very far.

But these articles which move mostly in less than carload lots will move a great deal farther than those articles which move in carload lots.

Mr. LADD:

Q. Look at column two and state what the percentage of
3897 interstate carload freight is to the total amount of all kinds of freight carried.

A. 72.4 per cent.

Q. What is the percentage of interstate less than carload freight to the total quantity of all kinds of freight, both State and interstate?

A. 2.82 per cent.

Q. In the same column, what is the percentage of State carload freight in tons, to the whole number of tons of all kinds of freight carried?

A. 23.20 per cent.

Q. And what is the percentage of State carload freight to the whole number of freight?

A. 1.54 per cent.

Q. So the percentage of interstate less than carload freight to the whole quantity of freight is almost twice as much as the percentage of State less than carload freight to the whole amount of freight; is that right?

A. Yes, sir.

Q. The third column purports to show the gross earnings from each class of freight, both State and interstate; that is correct, is it?

A. Yes, sir.

Q. Now what was the percentage of the earnings from the interstate traffic to the total freight earnings?

A. 74.27 per cent.

Q. And what is the percentage of revenue from State traffic to total earnings?

3898 A. 25.73 per cent.

Q. Were you able to ascertain the average amount received per ton for the hauling of these different classes of freight?

A. Yes, sir.

Q. That is also shown in column five, is it?
A. Yes, sir.
Q. And the average amount received per ton mile for handling these different classes?
A. Yes, sir, that is shown in column eight.
Q. What was the average amount received per ton for interstate carload freight?
A. 69.17 cents.
Q. That is entirely independent of the length of the haul, isn't it?
A. Yes, sir, they receive 69 cents on the average for each ton of interstate freight handled in Missouri during the month of October.
Q. In carload lots?
A. Yes, sir, in carload lots.
Q. How much did they receive on the average per ton for each ton of interstate less than carload freight during that same period?
A. $4.16 and a fraction cents.
Q. How much was received on the average for each ton of State carload freight?
A. 58.47 cents.

Q. They did not receive as much per ton for hauling the
3899 State carload freight as they did the interstate carload freight; is that right?
A. That is correct.
Q. But how far on the average did they haul the interstate carload freight?
A. 104 miles.
Q. And how far on the average did they haul the State carload freight?
A. 48 miles.
Q. So they received 58 cents per ton for hauling State freight 48 miles, and 69 cents a ton for hauling interstate freight 104 miles; is that right?
A. Yes, sir.
Q. How much on the average did they receive per ton for hauling the interstate less than carload freight?
A. $4.16 and a fraction cents a ton.
Q. How much for hauling the State less than carload freight per ton?
A. $5.11 and a fraction.
Q. How far on the average did they haul interstate less than carload?
A. 148 miles.
Q. And how far the State less than carload freight?
A. 114 miles.
Q. So they received $5.11 for hauling the State freight 114, and $4.16 for hauling the interstate freight 148 miles?
A. For hauling the interstate freight 148 miles, yes, sir.

Q. How much did they receive per ton mile for hauling
3900 the interstate carload freight, as shown in column eight?
A. .6667 cents.

Q. That means 66 and about $\frac{2}{3}$?
A. No, sir, that means $6\frac{2}{3}$ mills.
Q. 6 mills and $\frac{2}{3}$ of a mill?
A. Yes, sir, $6\frac{2}{3}$ mills per ton per mile.
Q. How much did they receive for hauling State freight per mile?
A. 1.217 cents. That makes about 1¼ cents per ton per mile.
Q. How much did they receive per ton mile for hauling the interstate less than carload freight?
A. 2.8 cents and a fraction.
Q. 2 cents and 8/10 of a cent?
A. Yes, sir, and a fraction.
Q. How much did they receive a ton a mile for hauling the State less than carload freight?
A. Almost 4½ cents a ton a mile.
Q. How far on the average did they haul that State less than carload freight?
A. 114 miles.
Q. And how far did they haul the interstate less than carload freight?
A. 148 miles.

The MASTER:

Q. So they received practically double per ton per mile for hauling State freight as what they received for hauling interstate freight?
3901 A. A little over double, if you take all of the interstate and all of the State freight.

Mr. LADD:

Q. How much did they receive on the average per ton per mile for hauling all the interstate freight both carload and less than carload, as shown in column eight?
A. 7 mills and 796/1000 of a mill.
Q. How much did they receive per ton per mile on the average for hauling the State freight?
A. 16 mills and 619/1000 of a mill.
Q. How far on the average was that State freight hauled?
A. All of the State freight was hauled on an average 52 miles.
Q. And how far was the interstate freight hauled on an average?
A. 105 miles.
Q. This Exhibit 19 was prepared by Mr. Taliaferro and his assistants and yourself, was it?
A. Yes, sir.
Q. You examined it?
A. Yes, sir.
Q. You are satisfied that the calculations are correct? Have you verified them or some of them?
A. Certain of them I have, and those I haven't personally verified have all been verified by different men from the men who worked them out. They have all been proven as to their mathematical accuracy.

3902 Mr. LADD: I will offer in evidence this statement as Exhibit 19.

The paper referred to is marked Defendant's Exhibit 19.

Defendant's Exhibit 19 is in the words and figures following, to-wit:

3903 Q. Have you and your assistants prepared a statement of the tonnage of carload freight on a ton mile basis, handled in Missouri by the Missouri Pacific Railway, on waybills made on three days in October, 1905, being October 1, 2, and 3?

A. Yes, sir.

Q. Does that include all the carload freight that touches Missouri, as the result of waybills made on those three days?

A. Yes, sir.

Q. No matter where the waybills were made, whether made in or out of the State; is that correct?

A. That is correct.

Q. The carload freight, both State and interstate, which touched Missouri?

A. Yes, sir.

Q. Handled on waybills issued on those three days, wherever those waybills may have been made and wherever the freight may have originated; that is right?

A. Yes, sir.

Q. Did you divide that up, the interstate freight, into classes?

A. Yes, sir, it was divided between what has been designated in this case as "through interstate" and what has been designated as "second-class interstate."

Q. What do you mean by the term "through interstate" as shown in this statement?

3904 A. Through interstate freight as shown in this statement represents that freight which originated outside of Missouri, passed through Missouri, and terminated outside of Missouri.

Q. And second-class interstate freight is what?

A. It is that class of interstate freight which originated or terminated in Missouri.

Q. And State freight is that which both originated and terminated in Missouri, and did not go out of Missouri at all?

A. Yes, sir.

Q. I will ask you right at this point, referring back to Exhibit 19, that does not appear to divide the interstate freight into classes, as you have in this Exhibit 20; explain why that was not done in Exhibit 19.

A. Because when we started work on the papers which are represented by Exhibit 19, the question of dividing the interstate freight between through interstate and second-class interstate had not been raised. So we merely attempted to divide it between State and interstate. The interstate freight could at that time have been separated between "through interstate" and "second-class interstate" very easily, if we had known that information was wanted.

Mr. HAGERMAN:

Q. That is to say, when you prepared Exhibit 19 you did not have in mind the separation of the interstate business?

A. When we started on the work we did not; and, in fact, that question was not raised until about half of the work represented by Exhibit 19 was completed.

Mr. LADD:

3905 Q. The suggestion of that division arose on the testimony of some witness at Chicago, did it not?

A. Yes, sir.

Q. And you have already begun the examination for this month, before that division had been suggested to anybody, and you felt you couldn't go back and do your work all over again?

A. We had started it and were about half way through with it, I should say, before that suggestion was made.

Q. Going back again and referring to the statement for those three days in October, how many tons one mile came under the classification of through interstate?

A. 1,353,754 tons.

Q. Ton miles?

A. Yes, sir.

Q. How much second-class interstate freight, in ton miles?

A. 1,763,755 and a fraction ton miles.

Q. And how much State freight ton miles?

A. 547,726 and a fraction ton miles.

Q. What proportion of the total tonnage was "through interstate"?

A. 37 and a fraction per cent.

Q. How much was the second-class interstate?

A. 48 and a fraction per cent.

Q. How much was State freight?

A. 14.92 per cent.

3903 Q. How much of the whole was interstate, including both classes?

A. 85 and a fraction per cent.

Q. So that all that freight which was handled on way-bills issued during those three days, about 85 per cent was interstate freight and about 15 per cent was State freight; is that right?

A. Yes, sir.

Mr. LADD: I will offer in evidence this statement as Defendant's Exhibit 20.

Defendant's Exhibit 20 is in words and figures following, to wit:

3907 Mr. LADD:

Q. Have you prepared a statement showing the amount expended for maintenance of way and structures and maintenance of equipment, per mile of line operated on the railroads of the United States, for a period of eleven years I believe it is, including June 30, 1904?

A. Yes sir, as shown by the statistical report of the Interstate Commerce Commission.

Mr. LADD: I will offer that in evidence as Exhibit 21.

The paper marked Defendant's Exhibit 21 is in the words and figures following, to-wit:

3908 Mr. LADD:

Q. Have you also prepared a statement showing the number of railroads per 100 square miles of territory; also per 10,000 inhabitants, in certain States, and the population per mile of road in those States, for the period ending June 30, 1904?

A. Yes sir, I have.

Q. These are taken from the statistical reports of the Interstate Commerce Commission also?

A. Yes sir.

Mr. LADD: I will offer in evidence this statement as Defendant's Exhibit 22.

Defendant's Exhibit 22 is in the words and figures following, to-wit:

3909 Mr. LADD:

Q. Have you also prepared a statement which is the result of your calculation as to the revenue per ton mile for the transportation of the commodities mentioned in the Act of 1905, at the rates fixed by that Act?

A. Yes, sir.

Mr. HAGERMAN:

Q. What exhibit of ours does that correspond to or bear upon, do you remember?

A. That would relate directly to the loss which you would have sustained under the Act of 1905.

Q. That is to say, the items appearing on the first pages of Exhibit 5 and 5*a*?

A. Yes, sir.

Mr. LADD: I will offer this statement in evidence as Defendant's Exhibit 23.

The paper marked Defendant's Exhibit 23 is in the words and figures following, to wit:

3910 Mr. LADD:

Q. This Act of 1905 I believe refers exclusively *in* carload lots. That is your understanding?

A. Yes, sir.

Q. According to Exhibit 19, the results of your investigation in the freight business of the company for the month of October, 1905, showed that the average amount received per ton per mile by the company, during that month, on interstate carload shipments hauled on an average of 104 miles was 6 mills and about $\frac{3}{4}$?

A. Yes, sir, almost exactly $6\frac{3}{4}$ mills per ton per mile.

Q. What rate or on what commodity does the Act of 1905 fix as low a rate per ton per mile as that?

A. For the same haul, 104 miles, it does not fix a rate anywhere near as low as that. The lowest rate for 104 miles would be one cent and 12/100 on grain, flour, lime, salt, cement, water-lime, stucco, lumber, laths, and shingles.

Q. That is the last column of Exhibit 23?

A. Yes, sir. And that rate would be very nearly double what the average revenue per ton per mile was on interstate carload freight during the month of October.

Q. Is there any rate fixed by the Act of 1905 on carload lots, on any commodity whatever, no matter what the length of haul, as low as the average revenue received from interstate carload freight in October, 1905. That is, as low as 6⅔ mills, and if there is any point out what it is.

A. The rate for the 350 mile haul on grain, flour, lime, salt, cement, water-lime, stucco, lumber, laths, and shingles would
3911 be 6½ mills per ton per mile, which is a fractional part of a mill less than the average received during October, 1905, on all the carload interstate freight per ton per mile, for in that case a haul of 104 miles.

Q. That is, 350 miles haul. I will ask you right there: Is there any other distance or rate of commodity shown in your Exhibit 23 where they would receive less than the average rate received in October, 1905, except the one you have mentioned?

A. No, sir.

Q. All the others are higher?

A. All the others are higher.

Q. And that one you mentioned is the last one in the last column, is it?

A. Yes, sir. When you get up to the same mileage——

Q. What would be the same mileage, or as nearly the same as is practicable to arrive at it. That is, you mean to say, the same mileage as the average mileage of the interstate carload freight hauled in October, 1905; is that what you mean?

A. Yes, sir.

Q. What was that average mileage?

A. 104 miles.

Q. Take your nearest mileage under the Act of 1905, and what would it be?

A. 100 miles.

Q. What are the rates there?

3912 A. The lowest rate is on horses and mules, which is 1.28 cents per ton per mile, or nearly double the amount received on the average for all of the interstate freight.

The next lowest rate is on cattle and calves, and also on grain, flour, and those items, which is 1.3 cents per ton per mile.

Q. As against what?

A. As against 6 2/3 mills for all the interstate freight.

The MASTER:

Q. What deduction do you make from those comparisons?

A. That the rates fixed by the Act of 1905 are more than twice as

much per ton per mile as the company is receiving for all of the interstate carload freight that it handles. And, of course, if the rate on all the interstate carload freight is 6 2/3 mills per ton per mile, they must be voluntarily hauling a larger amount of their interstate carload business for very much less than 6 2/3 mills per ton per mile.

Mr. HAGERMAN:

Q. If you want to make an absolutely fair comparison, and compare them with the interstate rates, have you prepared anything to show what the interstate rates are on those actual commodities, instead of comparing it with something that is hauled a great deal cheaper?

A. There are no interstate rates on these commodities.

Q. There is an interstate rate on horses and mules?

A. No interstate mileage rate on horses and mules, that I know of.

3913 Q. Call it the rates we charge, even though there is no law fixing that rate, no rate fixed by the Interstate Commerce Commission, there are rates we charge every day on interstate shipments.

The MASTER: I do not want to invite argument just now.

Mr. HAGERMAN: I only wanted to ask now, to get the information, so I can ask him about it after a while.

Mr. LADD:

Q. Look again at Exhibit 19 and state what was the average haul of the State carload freight.

A. 48 miles.

Q. The average length of the State carload freight haul is 48 miles?

A. Yes, sir.

Q. How much did the company receive per ton per mile, on the average, for that freight which was handled on the average 48 miles?

A. One cent and 217/1000 of a cent per ton per mile.

Q. Take your Exhibit 23 again and state how much, under the Act of 1905, the company would receive for hauling a distance of 50 miles.

A. They would receive for hauling horses and mules a distance of 50 miles 1.7 cents per ton per mile. For hauling cattle and calves 1.8 cents per ton per mile. For hauling hogs 2.27 cents per ton per mile. For hauling sheep in single deck cars they would receive 3.6 cents per ton per mile. For hauling sheep in double deck

3914 cars they would receive 1.8 cents per ton.

For hauling agricultural implements and furniture and wagons they would receive 3.2 cents per ton per mile. For hauling grain, flour, lime, salt, cement, water-lime, stucco, lumber, laths and shingles they would receive 2.2 cents per ton per mile.

Q. Under the Act of 1905 they get these amounts just mentioned, per ton per mile, for a haul of 60 miles, do they?

A. Yes, sir.

Q. And in October, 1905, for hauling 48 miles they got 1.21 cents?
A. Yes, 1.21 cents and a fraction.

The MASTER:

Q. That is the average they received for all State carload business?
A. Yes, sir, all the State carload business.
Q. In other words, the rates allowed by the Act of 1905, for hauling 50 miles in carload lots, are all of them higher than the company actually received in October, 1905, for hauling State carloads, per ton per mile; is that right?
A. Yes, sir, from 40 per cent to nearly 300 per cent higher.

At this point the usual hour for adjournment having arrived, further hearing herein is adjourned until tomorrow Wednesday, February 6, 1907, at ten o'clock in the forenoon.

3915 ST. LOUIS, MISSOURI, WEDNESDAY, *February* 6, 1907.

Met pursuant to adjournment as above on Wednesday, February 6, 1907, at ten o'clock in the forenoon, in the Federal Building in the City of St. Louis, Missouri.
Present: Hon. F. L. Schofield, Special Master.
Mr. F. Hagerman appeared in behalf of the Complainant.
Messrs. S. B. Ladd and John Kennish appeared in behalf of the Defendant.
The following proceedings were had.

H. ROTH, re-called, testified as follows:

Recross-examination.

By Mr. S. B. LADD:

Q. I believe you stated last week that certain revenue earnings at the Grand Avenue Station in Kansas City were credited to Missouri: Is that correct?
A. A portion of the freight earnings at Grand Avenue for the stations north of Kansas City were credited to the State of Missouri, in addition to earnings from the south.
Q. How much did the earnings amount to that were so credited?
A. I haven't the exact figures here. They will be here in about ten minutes. I have had statements prepared of these, and they will be brought over here presently.
Q. You said also that certain switching earnings at the Kansas City terminals were credited to Missouri: Is that correct?
3916 A. That is correct.
Q. What do they amount to?
A. The same thing applies to these, they will be here in a few minutes.

3917 Direct examination of CHARLES S. LUDLAM, continued as follows:

By Mr. S. B. LADD:

Q. Have you Exhibit 15 before you?
A. Yes sir.
Q. Please look at Exhibit 9-a also.
A. Yes sir, I have it here.

Mr. LADD: I will offer in evidence certain portions of the Missouri Pacific Railway Company's Eastern Division Time Rable No. 7, which took effect August 12, 1906; some parts of which was referred to in Mr. Doddridge's testimony last week. I will offer as Exhibit 24 that part of it on Page 2 which appears to be the schedule of freight trains west bound from St. Louis.

The time table schedule referred to is in the words and figures following, to-wit:

3918 Mr. LADD:

Q. Now Exhibit 15 which was offered in connection with the testimony of Mr. Doddridge, purports to be a statement of the tonnage of interstate and State freight, west bound, carried on through trains between the points named; and as to trains appearing on that printed schedule, which has just been offered in evidence, as Exhibit 24, he testified to, and the statement referred to, trains No. 51, 55, and two of the number 73 trains; Look at that schedule and see what train No. 51 is designated as.

A. Train No. 51 is scheduled as "Colorado Red Ball."
Q. And train No. 55?
A. That is scheduled as "Omaha Red Ball."
Q. And train No. 73?
A. Train No. 73 is scheduled as the "Kansas City & St. Joe Red Ball."

Q. Mr. Doddridge testified about these trains, that there was no less than carload freight carried in them: Have you looked into that to see whether Mr. Doddridge was correct or mistaken on that point?

A. We have examined Exhibit 9-a, which shows the merchandise loaded out of St. Louis on the days covered by these trains, and they show——

Q. Was Exhibit 9-a furnished and put in evidence by the Missouri Pacific Railway Company?
A. Yes sir.
Q. Does it show anything regarding train No. 51 from St. Louis on December 20, 1906, that being one of the trains men-
3919 tioned in Exhibit 15?

A. Yes sir, it shows that train No. 51 on December 20, 1906, carried eight cars loaded with less than carload freight.

In addition to that there are——

Q. Wait a moment: Does it show the tonnage of each one of those cars?
A. Yes sir.

Q. This Exhibit 9-a shows where the merchandise was loaded?
A. Yes sir.
Q. It was all loaded at St. Louis, wasn't it?
A. Yes sir.
Q. What is that sheet 9-a called?
A. Loading list for merchandise cars.
Q. St. Louis?
A. Dated St. Louis, 7th & Poplar, December 20, 1906.
Q. That means that all of the freight mentioned on that list was loaded at St. Louis?
A. Yes sir, I so understand.
Q. Does it show the amount of freight which each one of those eight cars carried in pounds or tons?
A. Yes sir, in pounds.
Q. What was the total amount in pounds of the freight carried in those eight cars?
A. The total freight loaded in those eight cars which are shown by this Exhibit to have been forwarded by train No. 51, was 111,-135 pounds.
3920 Q. How much does that average per car?
A. 13,892 pounds.
Q. That was all less than carload freight?
A. I so understand, yes sir.
Q. Does that show the point to which the freight contained in each one of those eight cars was destined?
A. Yes sir, it does.
Q. Was it all destined for points in Missouri?
A. No sir, there was not any of it destined to points in Missouri.
Q. None of it in any of those eight cars?
A. None of it in those eight cars. I can give you the point of destination of each car if you want it.
Q. I think that would take too much time. Could you state, generally, to what part of the country the freight was destined?
A. To points west of Kansas City.
Q. Some of it, I fancy, to points in Kansas: Would that be right?
A. Yes sir, some to points in Kansas and some to points in Colorado.
Q. Any to Nebraska?
A. I do not think there is any to Nebraska on that train. Yes, there is one car here to Salt Lake City, Ogden and Southern Pacific points and others.
Q. Does it show the amount of freight destined to each particular point?
A. Yes sir. It shows the amount of freight in each car
3921 and shows the destination of each car.
Q. I know: But does it show the amount of freight destined for each particular town?
A. No sir.
Q. How is that. Put in groups in some way?
A. Here, for instance, is car No. 7163, Texas & Pacific, containing 6,110 pounds, which was forwarded on that train No. 51, des-

tined for Pueblo, Astor, Kansas, Colorado and Southern Atchison, Topeka and Santa Fe points.

They would load all the less than carload freight they had for those points into that car, and forwarded it by that train, to break bulk probably in this case, at Pueblo.

Q. I notice at the bottom of this sheet, a number of loadings, which do not seem to be assigned to any particular train. The printed train numbers seem to have run out. So that in several places it does not appear on what trains they ran. You do not include any of those, I suppose?

A. No sir. There were 19 cars forwarded on the 20th. Which do not show the train number by which they were forwarded. Those, of course, are not included under the number of cars shipped by any of the trains mentioned in my testimony.

Q. Mr. Ludlam, is it possible to say from that sheet whether all that freight which you have spoken of, contained in those eight cars, originated in St. Louis?

A. No sir, it is not.

Q. Some of it might have originated here, or some of it be delivered to the company from its connecting lines. It all might have originated here, or none of it may have originated

3922 here: Is that true?

A. Yes, sir. The probability is that some originated in St. Louis and that some came through from eastern points, in each of those cars.

Q. But you cannot tell how much was loaded into the cars belonging to St. Louis shippers and how much came to it from other roads?

A. No, sir.

Q. But that was all less than carload freight?

A. Yes, all less than carload freight.

Q. Have you a similar loading sheet for the loading from St. Louis to Kansas City on December 20, 1906?

A. That is December 20th we are testifying about.

Q. Does that show train No. 55 on that?

A. Yes, sir.

Q. What does that sheet show, if anything, as to less than carload freight being loaded in train No. 55 on December 20, 1906?

A. Exhibit 9-*a* shows that nine cars loaded with less than carload freight were forwarded on train 55 on December 20, 1906.

Q. What is train 55 called in that train schedule Exhibit 24?

A. Train No. 55 is scheduled in the Time Table as the "Omaha Red Ball."

Q. And you say there were nine cars in that train?

A. Yes, sir.

3923 Q. What was the aggregate weight of the loading in those nine cars?

A. 131,526 pounds.

Q. How much did that average per car?

A. 14,615 pounds.

Q. Go back for a moment to train No. 51: There is a question I

omitted to ask you: You gave the amount in pounds: What was the total number of tons of less than carload freight in those eight cars which went in train 51?

A. 55.5 tons.

Q. What was the total tonnage of the entire train, as shown by Exhibit 15?

A. 410 tons.

Q. Of which 55½ was less than carload lots?

A. Yes sir, of which 55½ was less than carload lots, and there may have been more.

Mr. HAGERMAN:

Q. How many cars?

A. Exhibit 15 does not show.

Q. I thought that was Exhibit 9-*a*.

A. Exhibit 9-*a* contains only less than carload freight.

Mr. LADD:

Q. What was the aggregate loading on those nine cars, in tons?

A. 65.7 tons.

Q. What was the total tonnage of the trains, according to Exhibit 15?

A. 406 tons.

Q. What was the average load in each of those nine cars in tons?

3924 A. 7.3 tons.

Q. Does that show, so far as concerns train No. 55, whether any part of that less than carload freight went to Missouri points?

A. Two of those cars were destined to Kansas City S. L. (I don't know what S. L. means).

Q. I presume that means State line.

A. Two were destined to State line and one to Kansas City Grand Avenue. The balance were destined to points in other States.

Q. What was the loading of those two cars, in pounds?

A. One of those cars—if I may explain a little further—was destined for distribution between Boonville and McKinney. I don't know whether Boonville and McKinney are in Missouri.

Q. That is on what is called the low line in Missouri. And two cars for Kansas City?

A. One car for Lamine to Northrup.

Q. That is on the Low line?

A. One to Kansas City Grand Avenue and two to Kansas City State line.

Q. How many to the State line?

A. Two.

Q. That makes five cars in all destined to Missouri points?

A. Yes sir. The others were destined to points outside of Missouri.

3925 Q. What was the weight contained in those five cars?

A. 92,480 pounds, an average of 18,496 pounds in each of those five cars.

Q. That is a little over 45 tons in all?
A. 46 tons in the five cars. Showing that these cars destined to points within the State were a good deal more heavily loaded than those destined to points outside of the State.
Q. I will ask you some questions regarding those loads: Is it possible from that sheet there to say that all of that freight originating in St. Louis or part of it was delivered to the company here at St. Louis, or its connection?
A. It is not possible.
Q. You cannot tell about that?
A. No sir.

Mr. HAGERMAN:

Q. That is, you cannot tell whether it is State or interstate freight, from that statement?
A. I cannot tell whether the point of origin is State or interstate.

Mr. LADD:

Q. You said five cars?
A. Yes sir.
Q. All the rest of it, how many would there be?
A. Yes sir, there would be four others. If I may, I would like to tell their destination because I am not sure but some of these may be Missouri points.
There was one car destined to Lincoln for distribution between Lincoln and Northrup. It contained 4250 pounds.

3926 Mr. HAGERMAN: That is a Nebraska shipment?

Mr. LADD:

Q. Go on.
A. There was one car destined to the Santa Fe, containing 5,300 pounds. One car destined to Denver, containing 9/221 pounds.

Mr. HAGERMAN:

Q. Let us get that other car now, because if you had added these to your other interstate cars they would have reduced the average very much.
A. There is one car destined Lamine to Northrup.
Mr. LADD: That is one of your five. What is in Missouri?
A. There are two cars to Kansas City Grand Avenue. I made mistake there.
Q. Instead of there being five cars there are six cars for Missouri points?
A. Yes sir.
Q. Two for Grand Avenue Kansas City, instead of one?
A. Yes sir.
Q. That accounts for all of them?
A. Yes sir.

Mr. HAGERMAN:

Q. Suppose you added these three interstate to your nine, what would that difference in reducing your average be?

Mr. LADD: What do you mean by "reducing the average"?

Mr. HAGERMAN: I assume that if the three were added to the nine it would reduce the whole average.

3927 A. The nine includes the three to which Mr. Hagerman is referring.

Mr. LADD:

Q. You have given the average loading of the entire nine cars?
A. Yes sir.

Mr. HAGERMAN:

Q. And that includes these three cars?
A. Yes sir.

Mr. LADD:

Q. Have you a sheet there, being part of Exhibit 9-*a*, showing St. Louis loading on December 15, 1906, on train No. 73?
A. Yes sir.
Q. What is No. 73 called in the official schedule? What is the name of it
A. That is scheduled on the Time Table as "Kansas City-St. Joe Red Ball".
Q. How many cars if any, of less than carload freight, were loaded at St. Louis on that day that went in that train, according to that sheet?
A. Ten on December 15, 1906.
Q. What was the total amount of tonnage in those cars in tons?
A. 84½ tons.
Q. What was the total tonnage of the train, as shown by Exhibit 15?
A. 235 tons.
Q. And about ⅓ of it was less than carload freight?
A. Something over ⅓.

3928 Q. That is, an average of a little over 8½ tons to the car, isn't it?

A. Yes sir.
Q. How many of those cars carried freight destined for Missouri points: Can you pick that out?

Mr. HAGERMAN: What are you driving at by this? To show that these less than carload trains were pretty heavily loaded?

Mr. LADD: We will show that afterwards.

Mr. HAGERMAN: I should think the road would try to get them that way, when they are going to send them practically across the State?

A. In train No. 73 are two cars consigned to Kansas City State line and Atchison, Topeka and Santa Fe Railroad.
One car consigned to the Kansas City stockyards and Union Pacific points.
Two cars to Kansas City Grand Avenue.
One car to Kansas City cooler.

Q. What does Kansas City cooler car mean?
A. It must mean a refrigerator car going to some refrigerator plant at the Kansas City stockyards. That would be my assumption.
Q. Go on.
A. One car destined for distribution between — to Dalby.
Q. That is all Kansas?
A. Yes sir.
3929 Q. Go. on.
A. One car for distribution between Atchison to Greenleaf and West Park.
Q. That is outside of the State?
A. One car for Omaha.
One car for St. Joseph.
Q. Now take the list showing the loading at St. Louis on December 20, 1906, also in train 73 on that day.
A. There were nine cars, containing a total of 141,720 pounds.
Q. How many tons?
A. Or 70.8 tons.
Q. What was the total loading of the train, according to Exhibit 15?
A. 510 tons.
Q. What was the average loading of those nine cars, in weight?
A. 15,747 pounds.
Q. How many tons?
A. A little over 7.8 tons.
Q. How many of those nine cars were destined to Missouri points?
A. One, Kansas City cooler.
Two, Kansas City Grand Avenue.
That is all to Missouri points.
Q. On that official schedule there is a train No. 77 which is not referred to in Exhibit 15. What is that No. 77 called? It has been mentioned here by some of the witnesses.
3930 A. That is scheduled on the Time Table as the Joplin Division Red Ball.
Q. Do these loading lists at St. Louis show the merchandise less than carload loadings at St. Louis on that train 77 for any of these we have been mentioning, and if so what is it?
A. Yes sir, they show the cars forwarded on train No. 77 on December 15, December 17 and December 20, 1906.
Q. Take December 15th.
A. There were eighteen cars forwarded on December 15, 1906.

Mr. HAGERMAN:

Q. On train No. 77?
A. Yes.

Mr. LADD:

Q. That is the Joplin Red Ball?
A. The Joplin Division Red Ball.
Q. How many cars?
A. 18 cars.

Q. What was the total tonnage in those 18 cars?
A. 122.3 tons.
Q. Can you tell, without too much trouble, how much of that was for points in the State. Some of it was for points in the State and some of it for points out of the State?
A. I think it was all destined to points in the State: some of it might have been for those southern Kansas points outside the State.

The MASTER:

Q. Were all those 18 cars less than carload freight?
A. Yes sir.

3931 Mr. LADD:

Q. What is the next date you have which would refer to train No. 77?
A. December 17.
Q. How many less than carload cars were there on that day in that train?
A. Eleven.
Q. What was the total tonnage?
A. I have not figured that up, because Exhibit 15 covered only the trains forwarded on December 15th and December 20th. I haven't figured it for December 17th.
Q. What is your next date?
A. December 20th.
Q. Well.
A. 17 cars forwarded on the 20th of December, 1906, on train No. 77.
Q. What was their tonnage?
A. 90.7 tons.
Q. What was the average per car?
A. 10,681 pounds, which would be a little over five tons each.
Q. Have you any other date there for train No. 77?
A. No sir, that is all.
Q. Referring to the opinions which have been expressed here, that one reason for the extra expense of hauling freight on way trains is the waste space in them, how does this showing which you have been going over for the last two minutes as to the loading of these cars in these through trains, compare with the loadings
3932 of cars in the way trains, as to the waste of space in the cars?
A. It shows that the same conditions prevailed on the through trains as prevailed on the local or way trains. That is, that less than carload freight is hauled on the through trains as well as on the way trains. And, consequently, there would be lost space and a light revenue tonnage in comparison to the heavy dead tonnage that the trains would have to haul on the through trains as well as on the local trains.
Q. Does the weight in these cars which were loaded at St. Louis and transported on these through trains, as shown by these sheets, indicate that there was waste space in those cars?
A. Yes, sir. The average loading of all of these cars of less than

carload freight forwarded on those Red Ball trains, the highest class of through trains, as I understand from the testimony, was of course only a small part of the capacity of the cars.

Mr. HAGERMAN:

Q. What is the ordinary capacity?
A. That varies.
Q. What is the average?
A. The present capacity would run, in the cars of to-day, from twenty to forty tons. Some cars would have a capacity of fifty tons. I do not suppose you would have many of those on the Missouri Pacific Road.
Q. I thought it would be well to carry in mind, as we go along, the average of loading.
3933 A. I can say that your Exhibit 8, which shows the loadings of State freight at 88 stations on the Missouri Pacific Road, showed that the average loading in the cars loaded at those 88 stations with State freight was 27 tons each.
Q. That is carload stuff?
A. Yes sir.
Q. And this average you have been giving is about seven?
A. Yes sir. I should say about seven, it would average. That would show that on the less than carload merchandise covered by this Exhibit 9-a, the cars were loaded to only ¼ of the tonnage that the cars loaded with State carload freight at the 88 local stations, were loaded.

Mr. LADD:

Q. This Exhibit 15 which was put in evidence does not show anything about this train No. 77, this Joplin train?
A. No sir, it does not include train No. 77.

Mr. HAGERMAN:

Q. Where did you get that from?
A. The Time Table.
Q. Where did you get the figures that you applied to it?
A. From Exhibit 9-a.

Mr. LADD:

Q. Mr. Ludlam, have you got a statement as to the loading of these trains on certain days in October, 1905, the same trains?
A. Exhibit No. 9, which was filed by the Missouri Pacific Railroad Company in this case, shows the merchandise loading out of
3934 St. Louis on October 2nd, 3rd, 4th, 5th, 6th and 7th, 1905.
Q. What trains does that Exhibit give information regarding?
A. This Exhibit 9-a shows the trains on which all of the merchandise loaded out of St. Louis on those dates was forwarded.
Q. Have you an exhibit showing that?
A. We have a statement showing a recapitulation of the cars of

less than carload lots forwarded on each one of those trains, as shown by Exhibit 9.

Q. The exhibit you have prepared is made up from the information contained in Exhibit 9?

A. Yes sir.

Q. Which is already in evidence?

A. Yes sir.

Q. Exhibit 9 is a paper which was prepared by the Missouri Pacific Railway Company?

A. Yes sir. It is a copy, I might say, of the agent's report made to the Superintendent of Transportation of the Company at St. Louis, of the merchandise loaded out of St. Louis on each of those days.

Mr. LADD: I will offer in evidence this statement as Defendant's Exhibit 25.

The paper marked Defendant's Exhibit 25 is in the words and figures following, to-wit:

3935 Mr. LADD:

Q. The first column refers entirely to train No. 51, does it?

A. Yes sir.

Q. Which was the Colorado Red Ball?

A. Which is scheduled in the Time Table as Colorado Red Ball.

Q. Now on this exhibit the dates begin with three-nine, but the dates of the reports of loadings are actually one day previous?

A. Yes sir, except in the case of the report for October 9th, which covers the reports of loadings for two days previous, which was Saturday.

Q. Now take train No. 51, how many cars of less than carload freight were contained in that train on those six days, in all?

A. 143 cars.

Q. Running daily from 20 cars up to 26 cars?

A. 27 cars on one day.

Q. Take train No. 55 which was the Omaha Red Ball: How many cars of this kind of freight were in that train on those six days?

A. 32 cars.

Q. Running from 4 to 7?

A. Yes sir.

Mr. HAGERMAN:

Q. That first column indicates the total number of cars in the train?

A. That is the total number of cars forwarded from St. Louis in that train, which were loaded with less than carload
3936 freight.

Q. But not the number of cars that were in the train?

A. No sir, the number of cars loaded with merchandise.

Mr. LADD:

Q. In No. 73, which was the Kansas City-St. Joe Red Ball, how many cars of that kind went into that train on those six days?

A. 69.

Q. Running from 8 to 16 cars?
A. Yes sir.
Q. And train No. 77, Joplin Red Ball: How many cars of that kind went into that train on those days?
A. 149.
Q. Running from 22 up to 32?
A. Yes sir.
Q. You have next to the last column headed "other": What does that mean?
A. That means cars of merchandise forwarded by other trains than those four, according to these reports.
Q. And your last column is the total number of loadings of less than carload lots at St. Louis carried on those trains on each day: For instance October 3rd, 61 cars?
A. Yes sir. That total includes three cars that were forwarded on other than those four trains, as shown here on the exhibit.
Q. Do you know what other trains those were?
A. Exhibit 9 shows.
Q. Exhibit 9 shows what the other trains were, the numbers of them?
3937 A. Yes sir.
Q. The total number of cars shown on this exhibit is 411; what was the average loading of those 411 cars?
A. 11,990 pounds, each: or less than six tons.
Q. I am told that Mr. Bethard testified yesterday that the loading of State less than carload freight averaged less per car than inter-state less than carload freight, and he gave as one reason that the farmers or local shippers wanted to avoid demurrage charges: Now do you think that the carload State freight is loaded on the average with less tonnage than the inter-state carload freight?
A. No sir.
Q. Will you please look at Page 48 of the report of the Missouri Pacific Railway Company for the year ending June 30, 1906, and state what the average number of tons per loaded car is on the Missouri Pacific system.
A. 17.4 tons to each loaded car.
Q. That includes all kind of revenue freight?
A. Yes sir.
Q. Carload, less than carload, all kinds of freight, State and inter-state?
A. Yes sir.
Q. Please look at Exhibit 8.
A. I have it before me.
Q. Which was offered in evidence in connection with the testimony of Mr. Doddridge, and which I think pertains to the freight in carload lots handled at 88 stations: Does that show what
3938 the average weight of the State carload lots was in tons?
A. Yes sir, this exhibit shows that during the month which it covers there were 4,282 cars of State freight loaded at these 88 stations, with 115,604 tons.
Q. How many tons is that to the car, have you figured that out?

A. It is an average of 27 tons to each car.
Q. That is the State freight?
A. Yes, sir, that is State carload freight.
Q. Does that same exhibit show the number of cars of inter-state carload freight during the same period at the same stations?
A. Yes sir, it shows that 2,648 cars were loaded with inter-state freight at those 88 stations; and that they were loaded with 59,434 tons.
Q. That means loaded in and loaded out: You said loaded at.
A. It is all the freight handled at those 88 stations, in both cases.
Q. What was that average?
A. That is 22½ tons to each car.
Q. So, according to Exhibit 8, the cars loaded with State carload freight had on the average 4½ tons more freight than those loaded with inter-state carload freight?
A. Yes sir, 4½ tons, or 20 per cent.

Mr. HAGERMAN:

Q. That is, they started with that much?
3939 A. That is in and out.

Mr. LADD:

Q. The 88 stations which Exhibit 8 refers to, covers entirely and exclusively carload freight?
A. Yes sir, Exhibit 8 does.
Q. According to that, the economizing of space in the carload business is in favor of the State business and against the inter-state business, isn't it?
A. Yes sir, to the extent of 20 per cent.

Mr. HAGERMAN:

Q. Have you compiled anything there in regard to that, showing the character of the shipments which made up Exhibit 8: Does it show on it the character of the shipment?
A. No sir.
Q. For instance, the inter-state shipments on that are mostly live-stock and hay, in which the tonnage would not be nearly as great as some of the State shipments?
A. There is nothing here to indicate that, Mr. Hagerman. It is all the freight in and all the freight out.
Q. Don't you think you could have helped us a great deal more by ascertaining the exact facts, rather than practice on some of these exhibits offered for other purposes?
A. No sir, we thought these exhibits were typical of the small towns, and they are. I believe sincerely if you had an analysis of all your business handled on the Missouri Pacific Railroad for a month, you would find that same condition prevailed throughout, because it is the light loaded stuff that goes long distances, as a general proposition.
3940 Q. My notion would be that the only way on earth to compare would be to take a live-stock shipment interstate

and compare it with a live-stock shipment State; or a hay shipment interstate and a hay shipment State; and so on. But your comparison does not include anything of that kind.

A. Our comparison is merely showing what Exhibit 8 shows as to the loading of the different classes of business.

Mr. LADD: I want to offer in evidence a couple of printed sheets which have been referred to frequently in the testimony for the Complainant. One is form No. 1940, sheet No. 2, purporting to be an analysis of statement of Superintendent's operations for the month of June, 1906 and 1905, and for the period from July 1, 1905, to June 30, 1906, compared with the same period of the previous year.

I will offer in evidence this paper as Defendant's Exhibit 26.

The paper marked Defendant's Exhibit 26 is in the words and figures following, to wit:

3941 Mr. LADD: I will offer in evidence as Exhibit 27 another sheet which has been referred to, being form No. 1941, sheet No. 7, with the same heading as the other paper which has been marked Exhibit 26.

The paper referred to is marked Defendant's Exhibit 27.

Defendant's Exhibit 27 is in the words and figures following, to wit:

3942 The MASTER: Exhibits 26 and 27 are original sheets, to be returned to the Missouri Pacific Railway Company by the Defendant, and copies thereof to be filed as the exhibits.

Mr. LADD:

Q. Will you please look at Exhibit 26, which is Form 1940, sheet 2, which was just offered in evidence, and state what appears from that to be the average cost per ton on the Missouri Pacific Railway System for their station and yard services?

A. The average cost per ton, including company material, for station and yard service, for the year ending June 30, 1906, is shown by Exhibit 26 to be 17.92 cents.

Q. Does that Exhibit or Exhibit 27 show what is included in station and yard service, in the method of keeping the accounts of the Railway Company?

A. Yes, sir. Exhibit 27, which is sheet 7 of form 1941, shows that station service includes: Office force, platform foremen and clerks; platform labor; other labor; storage; station supplies; and telegraph and telephone expense.

And that yard service includes supervision, yard men, yard engine men and firemen, and oil and fuel for yard locomotives.

Q. In those items of expense which you have just enumerated under the head of "station and yard service" is or is not the entire operating expense of the terminals included?

A. Yes, sir, the entire operating expense of the terminals is included, with the exception of the maintenance and repairs
3943 of the terminals, which would be charged to maintenance of ways and structures.

Q. How would it be about maintenance of equipment, in the locomotives that are used in the terminals?

A. That would also be charged to maintenance of equipment, and not be included in the items station service and yard service.

Q. So with those two exceptions, maintenance of the yard and its tracks, and any structure which may be in the yard, which are accounted for in expenses under the head of "maintenance of ways and structures;" and the maintenance of the locomotives, which comes under the head of "maintenance of equipment;" the entire terminal expenses is included, is it?

A. Yes, sir.

Q. Have you prepared a statement starting with that item of expense, which makes an estimate of the cost per ton of handling State freight and interstate freight?

A. Yes, sir, I have prepared two exhibits: one showing the cost per ton of the interstate, and one showing the cost per ton of the State freight.

Mr. LADD: I will offer in evidence this statement as Defendent's Exhibit 28.

The paper marked Defendent's Exhibit 28 is in words and figures following, to wit:

3944 Q. Have you prepared an estimate of the cost of handling the State freight also?

A. Yes, sir.

Mr. LADD: I will offer in evidence this paper as Defendant's Exhibit 29.

The paper marked Defendant's Exhibit 29 is in the words and figures following, to-wit:

3945 Mr. LADD:

Q. Referring now to your Exhibit 28, purporting to be a statement showing the cost per ton for handling interstate freight: These are estimates of the cost of doing the State and interstate business of the Missouri Pacific Railway Company in Missouri, aren't they?

A. Yes, sir, based upon the operations of the system.

Q. Take your first column, under the head of "single cost"; Now your 17.92 cents you take from the cost per ton for *for* station and yard service from Form 1940, did you?

A. Yes, sir.

Q. The figure under that for train service is 4 cents and a little over 3/10 of a cent. I wish you would tell the Court how you arrived at that estimate.

A. Exhibit 27 shows——

Q. That is Form 1941?

A. Yes, sir, Form 1941, Exhibit 27, shows that the cost for train service for the Missouri Pacific System for the year ending June 30, 1906, amounted to 4.1 cents per 100 ton miles.

Now the average haul of interstate freight in the State of Missouri, as shown by Exhibit 19, was 105 miles.

Q. What is Exhibit 19?

A. Exhibit 19 is a statement of the freight handled on the Missouri Pacific Railway in Missouri during the month of October, 1905.

Mr. HAGERMAN:

Q. That is, that 105 miles average haul is the one you have shown on Exhibit 19?

3946 A. Yes, sir.

Q. And how do you get the 105, the number of tons one mile entered into that same way: You divided that by something else to get your 105?

A. The average haul of 105 miles for interstate freight, is shown in column 9 of Exhibit 19. That is arrived at by dividing the total ton miles shown by column 6, by the number of tons shown in Column 1.

Mr. LADD:

Q. Exhibit 19 you have been referring to is one which has already been offered in evidence by the Defendant?

A. Yes, sir.

Q. Proceed with that explanation of the second item of cost.

A. Exhibit 19 shows that the interstate freight moved on the average 105 miles. If it costs 4.1 cents to haul a ton 100 miles, it would cost 4.305 cents to haul one ton 105 miles.

Q. Proceed with the next item as to the engine service, and tell how that was arrived at.

A. Form 1941, Exhibit 27, shows that the cost of engine service per 100 cents one mile, during the year ending June 30, 1906, amounted to 9 cents. If it costs 9 cents for engine service for each ton hauled 100 miles, it would cost 9.45 cents to haul a ton 105 miles.

Q. Now proceed down the list and state as briefly as you can how you arrived at your figures.

3947 What do you mean by "C. T. expenses"?

A. The next item shown on Exhibit 28, "Other C. T." means other expenses of conducting transportation operating expenses, not included in station service, yard service, and engine service.

It is shown by Exhibit 27, which is Form 1941, to amount to 4.24 cents for each ton 100 miles.

If it costs 4.24 cents for one ton 100 miles, it would cost 4.452 cents for one ton 105 miles.

Mr. HAGERMAN:

Q. Wherever you use the initials C. T. it means conducting transportation?

A. Yes, sir, on this exhibit.

The next item on Exhibit 28 is "expense of traffic service" which is shown by Form 1941 to be 1.32 cents for each ton moved 100 miles. This reduced to 105 miles, the average haul of interstate freight in Missouri, as shown by Exhibit 19, would make the charge for conducting transportation traffic expenses 1.386 cents.

That would make the total conducting transportation expenses,

as shown by Exhibit 28, 37.513 cents for each ton of interstate freight handled by the Missouri Pacific Railway in the State of Missouri, based on the average of 105 miles, which Exhibit 19 shows was the average haul of interstate freight.

Q. Proceed. What does "M. W. S." mean?

A. Maintenance of ways and structures, are shown by Exhibit 28 to amount to 7.11 cents for each ton 100 miles.

3948 Mr. HAGERMAN:

Q. This Form 1941 has three things: Train mile in cents, car miles in cents, and 100 ton miles in cents. And your computation is made on the basis of the 100 ton miles in cents?

A. Yes, sir.

Q. Did you make any computation on the basis of train or car miles?

A. No, sir, we had not any statistics in regard to that. We could not divide tonnage between train mileage and car mileage, as between interstate and State. But we can divide the ton mile because we know how many miles the State and interstate freight moved.

Mr. LADD:

Q. Proceed with your explanation.

A. This Form 1941 shows maintenance of way and structures expenses during the year ending June 30, 1906, to have been 7.11 cents for each ton 100 miles.

If the maintenance of way and structure expenses were 7.11 cents for one ton 100 miles, they would be 7.465 cents for one ton 105 miles.

The next item "M. E. expenses" means maintenance of equipment expenses, and these expenses are shown by Form 1941 to have amounted to 9.84 cents per ton per 100 miles, during the year ending June 30, 1904. And if it costs 9.84 cents to haul one ton 100 miles, it would cost 10.332 cents to haul one ton 105 miles.

The nex[illegible]n on Exhibit 28, "general expenses" is shown by Exhibit 27, being Form 1941, to have cost the
3949 company during the year ending June 30, 1906, 2.51 cents for each ton 100 miles. If it costs 2.51 cents for one ton 100 miles, then it would cost 2.636 cents for one ton 105 miles.

Adding all these figures together, that is the total for conducting transportation, maintenance of way and structures, expense, maintenance of equipment expense, and general expenses, gives us a total cost per ton of 57.946 cents.

Mr. HAGERMAN:

Q. What does that mean? The cost of moving one ton a mile?

A. It means the cost of moving one ton 105 miles, which is the average haul of interstate freight, as shown by Exhibit 19.

Q. That is, one ton 105 miles?

A. Yes, sir.

Q. Your next statement there on this exhibit is the average amount received per ton for each ton of interstate freight, as shown by Exhibit 19; how much is that?

A. 62.2 cents per ton.

Q. That is the Exhibit showing the operations of the Company for the month of October, 1905, Exhibit 19, is it?

A. Yes, sir.

Q. Upon that basis what is the ratio of cost to earnings on the interstate traffic in Missouri?

A. 70.49 per cent.

The usual hour having arrived, recess was here taken until two o'clock P. M.

3950 After recess on Wednesday, February 6, 1907, the following proceedings were had:

Direct examination of C. S. LUDLAM, continued as follows:

By Mr. S. B. LADD:

Q. Take if you please, Exhibit 28, Mr. Ludlam; now this is an estimate of the cost per ton for handling State freight in Missouri, with a basis to begin with of the cost for station and yard service, as shown in Form 1940, being the same basis for the computation in the beginning of Exhibit 28. That is right, isn't it?

A. Yes, sir.

Q. In the first column you allow 17.92 cents for station and yard service: that is on the basis of its costing the same for that service that the average ton costs on the whole system; that is right, isn't it?

A. Yes, sir, it is based upon the same cost per ton, irrespective of the fact that the State freight is hauled a shorter distance than the interstate, and therefore, would have less use of the terminals than the interstate freight.

Q. I notice on that first line some abbreviations in parentheses; what did they mean?

A. "Including Company material."

Q. In this first column you assume that the average cost per ton for station and yard service, on the State freight handled in Missouri, is 17.92 cents?

A. Yes, sir.

Q. That is the same amount as shown by Form 1940, that
3951 the average cost per ton for that service on the entire Missouri system, which includes not only what we understand as the Missouri Pacific Railway, but the Iron Mountain Railroad and the Central Branch?

A. Yes, sir.

Q. I will get you to say, before we go any further, whether you think 17.92 cents, in your opinion, is the cost for station and yard service on State freight in Missouri—is that, or less or more than that?

A. I don't think that the station and yard service per ton on State freight in Missouri would amount to anything like as much as the average per ton for the entire system; for the reason that the average ton of State freight in Missouri moves only 52 miles, which on the average would give it only an originating and terminating terminal; whereas, all the freight on the system moves an

average of 222 miles, which would give it an originating and terminating terminal, and probably two intermediate terminals.

So that the system expense for terminals would be a good deal higher than the State expense for terminals.

Q. There are two terminals in the case of State freight?

A. On the average, where the freight moves 52 miles, there would be only the two terminals, the originating and the terminating terminal.

Q. You say that the average haul of freight on the Missouri Pacific system is 222 miles; where did you get that information?

A. I got that from the Annual Report of the Company,
3952 on page 48. It shows that all the freight handled by the system, including revenue freight and company freight, moves on the average 222 miles.

The revenue freight moved 237 miles, and as this State freight, as shown by Exhibit 19, is State revenue freight only, it would be probably fairer to compare the 52 mile haul of state freight with the 237 mile haul of all freight on the system. Therefore, there would be the two terminal expenses on the State freight as against the 237 miles haul on the system.

Q. You say there are two terminals on the State haul of 52 miles?

A. Yes, sir, on the average.

Q. You mean to say there are, in your opinion, more than two terminals on the haul of 222 miles or 237 miles?

A. Yes, sir.

Q. How do you make that out?

A. Because the average freight division is about 100 miles, and there is not freight that passes over a divisional point without there being some terminal expenses incurred.

Q. Does that assume that all this freight on the system, whose average terminal expense is 17.92 cents, has its place of origin and place of destination on the system?

A. The freight itself may not have originated or terminated on the system.

Q. Suppose it did not either originate or terminate on the system, then that terminal expense at the point of origin or at the
3953 point of destination would not be a terminal expense, would it?

A. Each ton of freight handled by the Missouri Pacific Railroad Company must have a point of origin on the system and a point of termination on the system, whether that is the point of origin or the point of destination of the freight or not. And that terminal expense, where the freight originates on the system, would be almost the same whether the freight itself originated there or originated beyond that point.

Q. You take the case of some freight coming from say Cincinnati, east of the river, where the Missouri Pacific Railway does not reach, for a point on the system west of St. Louis; now the point of origin of that freight is not on the system?

A. No, sir.

Q. That terminal expense at that point of origin, say Cincinnati, is not incurred by the system?

A. The Cincinnati terminal, of course, is not incurred by the system. But the point I make is that the terminal expense of the system, where it receives that freight at St. Louis, is as great to the system as would be if the freight originated at St. Louis, or almost as great. There might be a very slight difference.

I would explain it by saying the getting out of an empty car for loading. But if the car was loaded it would not cost the Missouri Pacific any more to haul it from one of its industrial tracks in the City of St. Louis than it would to haul it from the connecting tracks of the line from which it received the freight. And,
3954 probably, that expense would not be as great to the company in the case of the freight originating at St. Louis as in the case of the freight originating east. For the reason, that these cars from the east would be delivered to the company in lots of 10, 20, or 30, and they would have to be switched, those 10, 20, or 30 cars, all around to different parts of their yards, to distribute them to their different trains. Whereas, if they took one car off an industrial track they could put it right into the train on which they wanted it to go out.

Q. The substance of it is this: That in your opinion the expenses at St. Louis to the Missouri Pacific Railway, connected with a carload of freight delivered to it by a connecting line east of the river, is as great or nearly as great as the expenses to the Missouri Pacific Railway Company at St. Louis, in the case of a carload of freight loaded at St. Louis?

A. Yes, sir, that is exactly what I mean.

Q. Now take less than carload freight: How would the expense of handling less than carload freight at St. Louis, received from a connecting line at St. Louis, compare with the expense of handling less than carload freight whose origin was St. Louis?

A. I think the expense to the company in handling the less than carload freight which was received from connecting lines would be greater than the expense of less than carload freight that originated at St. Louis?

Q. Why?

A. Because there would be an additional handling, as a
3955 general proposition. The less than carload freight delivered by connecting lines would have to be unloaded from the car in which it was received, and then reloaded into the Missouri Pacific car on which it was forwarded out of St. Louis.

Whereas, in the case of freight that originated at St. Louis, there would be merely the loading into the car on which it was forwarded out of St. Louis.

Q. There is an additional unloading?

A. Yes, sir, on a large part of it.

Q. I do not think you explained yet: You said a while ago there were two terminals in the case of purely State freight, and you thought in the haul of 222 miles or the haul of 237 miles, as the case might be, there would be more than two terminals; now, you explained that by saying that there would be a division point in the

course of that haul, where there would have to be some attention paid to the freight?

A. Yes, sir, one or two division points.

Q. Do you mean to say that at each of these division points it would be equivalent to a full terminal expense at the point of origin or the point of destination?

A. No, sir. The intermediate terminal expense would be much less than the terminal expense at the point of origin or at the point of destination.

Q. But you think on the long haul of 222 miles or 237 miles, whether it be State or interstate freight, there is more than the equivalent of two terminals?

A. Yes, sir.

Q. While on a haul of 52 miles, usually there would be
3956 only two terminals; is that right?

A. Yes, sir.

Q. At the point of origin and at the point of destination?

A. Yes, sir, that is right exactly.

I might illustrate by saying that on a carload of freight originating at Jefferson City and going to Sedalia, on the Missouri Pacific Railway, there would be only the originating and terminating terminal. But on a carload of freight originating at St. Louis, Missouri, on the Missouri Pacific Railway and going to Pueblo on the Missouri Pacific, there would be a great many intermediate terminals, the distance being 900 miles there would be probably six or seven intermediate terminals.

In the case of that car the intermediate terminal expense would probably be as great as the terminal expense at the point of origin and destination.

Q. That causes the expense, if there is any, at what you call the intermediate terminals? You do not mean to say the freight is unloaded from one car and loaded into another?

A. Oh no!

Q. What is it?

A. The expense is the use of the terminals which is made by the through business. At each of these terminals that car would receive some attention. Some of the time of the yard men would be given to inspecting that car. The car would be switched from
3957 one train to another. There is always a constant shifting of cars on all trains they pull into terminals.

Q. The train on which that car started out might be partially broken up, the cars separated, going to different points?

A. It probably would be.

Q. And that would be at one of these intermediate terminals?

A. At almost every one of those intermediate terminals the trains are partly, at least, broken up. Very few trains go right straight through. Most of the trains are more or less broken up at the intermediate terminals.

Q. The amount is 17.92 cents per ton?

A. Yes, sir.

Q. Not per ton miles?

A. No, sir.

Q. That 17.92 cents per ton is the cost, irrespective of the length of the haul?

A. Yes, sir.

Q. If 17.92 cents is the cost per ton, not per ton mile?

A. That is the cost per ton.

Q. That is the cost which you have fixed here, irrespective of the length of the haul?

A. Yes, sir.

Q. Look at Exhibit 29, and state if in the first column that assumes to be the cost per ton. What does that mean? Upon a haul of 52 miles, the average haul of the State freight as com-
3958 pared with a haul of 105 miles, the average haul of the interstate freight?

A. It means that if it is reduced to a per ton per mile basis, we have charged the State freight twice as much per ton per mile as we have the interstate, for terminal expense.

Q. That is, is it, because the haul is twice as long in the case of the interstate freight as it is in the case of the State freight, and you have charged the State freight the same cost per ton; is that right?

A. Yes, sir.

Q. So it amounts in a comparison with the cost of the interstate freight 17.92 cents, it means twice 17.92 relatively?

A. Relatively per ton per mile.

Q. Take the first column of figures in Exhibit 29, "Train service",—the figures 2.132 cents, how do you reach that?

A. The cost of train service is shown by Exhibit 27, which is Form 1941, to be 4.1 cents per ton per 100 miles. If it costs 4.1 cents for one ton 100 miles, it would cost 2.132 cents for one ton 52 miles, 52 miles being the average haul of State freight in the State of Missouri, as shown by Exhibit 19.

Q. That is to say, the cost of hauling a ton of State freight is two cents and a fraction as against four cents and a fraction for interstate freight, because the haul of the State freight is
3959 52 miles, whereas the haul of the interstate freight is 105 miles; is that it?

A. Yes, sir.

Q. Take engine service 4.68 cents: Do you reach that in the same way?

A. Yes, sir, using as our basis of cost the figures 9 cents as the cost of engine service per 100 ton miles.

Q. "Other conducting transportation expenses;" is that reached in the same way?

A. Yes, sir.

Q. And "conducting transportation traffic expense;" 6/86 mills; is that reached in the same way?

A. Yes, sir.

Q. What is the total for conducting transportation?

A. 27.623 cents per ton.

Q. Your next item is "maintenance of way and structures;" is your 3.7 cents reached in the same way?

A. Yes, sir.

Q. And your item of maintenance of equipment 5.117; is that reached in the same way?

A. Yes, sir.

3960 Q. And the item of "general expenses" 1.3 cents; is in the same way?

A. Yes, sir.

Q. What is the total expense per ton, on that basis?

A. 37.745 cents.

Q. What was the average amount received per ton for each ton of State freight, as shown by your examination of the business of the company for October, 1905, as represented in your Exhibit 19?

A. 86.63 cents.

Q. According to that, what is the percentage of cost to revenue on the State freight?

A. 43.57 per cent.

Q. Take your second column on Exhibit 29, what are the assumptions there as to the difference of cost in any of the items of expense?

A. The figures in the second column are prepared upon the assumption of the train service costs twice as much per ton per mile as the average cost per ton per mile of all the train service of the Missouri Pacific system, as shown by Form 1941. And that the engine service costs twice as much per ton per mile as the engine service of the system costs, as shown by Form 1941.

Q. Is that for the system or interstate in Missouri?

A. On the interstate in Missouri.

Q. Which is right? I see it is headed that way.

A. Missouri is correct.

Q. Interstate in Missouri?

A. Yes, sir, interstate in Missouri.

3961 Mr. HAGERMAN:

Q. Let me see if I understand what is meant by that: this second column of Exhibit 29 is compiled upon the theory that so far as engine service is concerned, it costs twice as much as is shown on this Form 1941?

A. Based upon Missouri mileage.

Q. But you have headed it "Twice as great on State as on Interstate per ton per mile"?

A. In Missouri.

Q. How do you do the example, is what I would like to see; do you start with your original figure, the cost as shown by Form 1941?

A. Yes, sir.

Q. And then you multiply that by two?

A. I applied that to the State of Missouri, and then we had the proportion of the total tonnage, which is State freight in Missouri, and multiplied that by two.

Mr. LADD:

Q. Look back to your Exhibit 28: how did you reach in your first column, the cost per ton of handling interstate freight in Missouri, 4 cents plus?

A. We took the cost for hauling one ton 100 miles, as shown by the Company's Form 1941, and that being the cost for 100 miles, we divided that by 100 and multiplied it by 105, the haul in Missouri being 105 miles.

Q. The average cost per ton for 100 tons one mile, that is one ton 100 miles,—that is all the same thing, isn't it?

A. Yes.

Q. On the entire system, the average cost per ton for 100 tons one mile is 4.1 cents?

A. Yes, sir.

3962 Q. But the haul on the interstate freight in Missouri being 105 miles instead of 100 miles, that 4.1 cents becomes what for the interstate freight in Missouri?

A. 4.305 cents.

Q. A little more than the average on the whole system?

A. Yes, sir; it costs a little more to haul it 105 miles than the average cost for 100 miles.

Q. Now take your second column, and the second figure in it, in your Exhibit 29: How do you reach your cost of train service on State freight, of three cents and a fraction, instead of four cents and a fraction on interstate freight?

A. Out of each 100 ton miles freight was moved in Missouri, fourteen miles represented State freight and 86 miles represented interstate freight. We doubled the mileage representing the State mileage in Missouri, and got our unit on that basis.

Mr. HAGERMAN:

Q. Where did you get your 96.14?

A. On Exhibit 19.

Mr. LADD:

Q. I wish you would take the figures and work it out. How do you reach that 3.734 cents?

The MASTER:

Q. How did he reach the 17.92?

Mr. LADD: That is the average cost for station and yard service. That remains the same.

The MASTER: It is in a column that purports to be multiplied by two.

Mr. LADD:

Q. Explain how you reach that 3.734 cents?

A. The cost for train service on the system being 4.1 cents for 100 ton miles, and the division between the total ton miles
3963 in the State of Missouri being 14 ton miles of State freight to 86 ton miles of interstate freight, as shown by Exhibit 19,

we put down the ton miles of the interstate freight, which is 86; then take the State ton miles, 14; and for the purpose of finding out what that would cost, if it costs twice as much, we multiply the 14 by 2, which gives 28. Add that 28 to the 86 which gives us 114 miles. We divide that 114 into the cost, 4.1 cents, to get our common unit, which gives us a result of 3.59, which is the per ton per mile of the interstate, or the common unit. We apply that common unit to the interstate.

The State freight costing twice as much per ton per mile, we multiply that 3.59 by 2, which gives us 7.18 as the cost of the State freight, as compared with 3.59, the cost of the interstate freight.

We take the 7.19, in the case of the State freight, and multiply it by 52, that being the average haul of the State freight in the State of Missouri, as shown by Exhibit 19. 7.18 multiplied by 52 gives us 3.734 cents, which would be the cost of the train service for the State freight, if it costs twice as much per ton per mile as the interstate.

To determine the cost of hauling a ton of interstate freight 105 miles, we go back to the common unit of 3.59 previously established, and multiply that by 105 miles, that being the average haul of the interstate freight in the State of Missouri, as shown by Exhibit 19. That gives us 359 times 105, which equals 3.759 cents, which is the cost of the engine service for hauling a ton of freight 105 miles, assuming that the State freight costs twice as much as the interstate.

3964 Q. That 3.769 cents appears on Exhibit 28 in the second column, does it?

A. Yes, sir.

Q. As the cost of the train service on interstate freight in Missouri per ton? Is that right?

A. After doubling——

Q. Upon the theory that the train service on the State freight costs twice as much per ton as it does on the interstate freight?

A. Per ton per mile; yes, sir.

Q. So the result of that, assuming the cost of the train service per ton per mile on the State freight is twice as much as it is on the interstate freight, it would leave the cost of interstate freight 3.769 cents per 105 ton miles, and the State freight 3.734 cents, as shown on Exhibit 29; is that right?

A. Yes, sir, it would leave the cost of the train service for hauling interstate freight 105 miles 3.769 cents as compared with the cost of train service for haulin*t* a ton of State freight 52 miles, 3.734 cents.

Q. These figures are the cost per ton, and not per ton mile; is that right?

A. Yes, sir.

Mr. HAGERMAN:

Q. Comparing the two, although it costs twice as much to do the State as the interstate traffic, the cost is 3.769 cents in the case of the interstate, as against 3.734 cents in the State traffic?

A. Yes, sir; because the haul of the interstate traffic is more than twice as long as the haul of the State traffic.

3965 Q. And yet the result is, you brought it down to the basis of the ton mile, the actual cost of handling a ton?

A. Yes, sir.

Q. So as to correspond with and offset column 5 of your Exhibit 19, where you received 82.2 cents per ton for interstate and 86.63 cents for State freight?

A. Yes, sir.

Mr. LADD:

Q. Although this column 2 in Exhibit 29 purports to be made on the assumption that the train service costs twice as much on State as on interstate freight, per ton per mile, the fact that the figures in that column, 3.734 cents, are not twice the corresponding figures in Exhibit 28, referring to interstate freight, 3.769 cents, is because the mileage of the State freight is only 52 miles while the interstate freight is 105 miles; is that it?

A. Yes, sir.

Q. It is really twice as much when you come to consider the difference in mileage, is it?

A. It is exactly twice as much per ton per mile.

Q. What is included in "train service," according to this Form 1941?

A. Exhibit 27, being Form 1941, shows that train service includes train-men-regular time; train-men-over and construction time; oiling cars and other supplies.

Q. Now, while you are at it, will you state what "engine service" according to that Form 1941, includes?

A. Engine service includes: engineers and firemen—regular time; engineers and firemen—over and constructive time; engineers and firemen—helping service; fuel for locomotives (includes cost

3966 of handling); water supply for locomotives; stores for locomotives (lubrication, etc.); other supplies for locomotives (sand, tools, inspection); and engine-house men.

Q. In this second column of Exhibit 29, upon the assumption that the engine service costs twice as much per ton per mile on State as on interstate traffic, you fix the cost per ton at 8.206 cents; is that result reached in the same way as with the figures concerning train service?

A. Yes, sir.

Q. The same method was pursued?

A. Yes, sir.

Q. I think all the other figures except the totals and percentages in that second column, are exactly as they are in the first column; is that right?

A. Yes, sir; all except train service and engine service.

Q. Does that allow any extra cpst to be charged to the State traffic on account of maintenance of way and structure, maintenance of equipment, general expenses, and certain items included under "Other conducting transportation expenses"?

A. No, sir, it does not.

Q. In your third column is a third showing upon the basis that the train and engine service for the State traffic costs three times as much per ton mile as on interstate, and the figures 4.992 and 10.967 cents, are reached by the same method you have described in relation to the train service, are they? That is, using three instead of two as the multiple?

A. Yes, sir, multiplying the proportion of ton miles represented by the State business by three.

3967 Q. Suppose the cost were as shown in your second column, what would be the ratio of expense to earnings?

A. On State business 49.49 per cent.

Q. And in your third column, assuming the train and engine service cost three times as much per ton per mile, what would be the ratio of expense to earnings, in that case?

A. 54.13 per cent.

May I go back to that matter of multiplication for a moment?

Q. Yes.

A. I want to say that if you took the total charge to train service per ton under this column where it is shown as twice, and divided it by 52, which is the average haul, that would give you the cost per ton per mile. Then, if you took the corresponding figure on the interstate, 3.769, and divided it by 105, that would give you the average cost per ton per mile used here on the interstate.

And that deduction would show that the cost per ton per mile was twice as much in the case of State as in the case of interstate traffic. That would be a simple method of proving that this cost is double per ton per mile.

And the same remarks would apply to column 3, if you use the multiple three instead of the multiple two.

Mr. HAGERMAN:

Q. Would it apply to each place where you have made a difference in the increased cost?

A. Yes, sir.

I might explain the whole thing by a very simple illustration.

Mr. LADD:

Q. First let me ask you if this method of arriving at the re-

3968 sults you were explaining to Mr. Hagerman a few minutes ago (which was not put into the record)—when you reached this second column of Exhibit 29, is the same method pursued by Mr. Sturgis in reaching his ratio of three to one?

A. The same method, and, of course, the only proper basis upon which it could be determined.

As an illustration, I will say that if you assume that three ton miles costs ten cents, that would be an average of three and one-third cents for each ton mile. Then if you assume that of those three ton miles one ton is State ton miles and two ton- are interstate ton miles, if you wanted to find out what the cost of the State as compared with the interstate was, assuming the State was double, you would take the one ton mile of State freight and multiply it by two, which would give you two ton miles. Then take two tons of interstate and add

that, and your total would be four tons; two tons of State and two tons of interstate freight. Although there was really but one ton of State freight, multiplying it by two gives two tons of State. Those two together give you four tons, dividing that four into your cost, ten cents (which remains the same), gives you a cost of two and one-half cents per ton mile, as compared with three and one-third cents, which you had when you divided the ton by three.

Having determined that unit of two and one-half cents, that represents the cost of the interstate ton miles. But the State freight, being double, would be five cents per ton mile.

So in that case you would have two tons of interstate freight, costing two and a half cents each, which would be five cents; and
3969 one ton of State freight, costing five cents; which added to the other cost would give you a total of ten cents, which is what the three tons cost.

If you assume that the State freight costs three times as much as the interstate freight, then you would take that one ton mile of State freight and multiply it by three, which would give you three; add to that three the two ton miles of interstate, which would give you five. That five ton miles divided into your cost of ten cents would give you the unit of two cents a ton mile. You would apply that unit of two cents to your two tons of interstate freight, which would give you four cents; and you would apply three times that unit of two cents, or six cents, to your one ton of State freight. The six cents and the four cents added together would give you again your cost of ten cents for the three miles.

On the basis of their all costing the same in that example, the rate would be three and one-third cents per ton mile for State and interstate.

On the assumption of State freight costing twice as much as the interstate, the cost for the interstate would be two and one half cents per ton mile; and the cost of the State freight five cents per ton mile.

On the basis of the State freight costing three times as much, the cost of the interstate would be two cents a ton mile, and the cost of the State freight six cents a ton mile. Although in all cases your total three miles would remain at a cost of ten cents. You do not change the total cost which remains fixed at ten cents, but you change the distribution of that between State and interstate
3970 freight, by doubling your State mileage when you assume the State costs twice, or by tripling your State mileage when you assume the State costs three times. But your total cost being fixed, you do not change that, and it remains the same.

Mr. HAGERMAN:

Q. Let me see how far apart you and Mr. Sturgis are.

Your total expenses can not vary. Your total is one hundred per cent?

A. Your total is one hundred per cent.

Q. If it is divided upon the percentage of revenue, and say it was 80 per cent for interstate and twenty per cent for State, if that is

the right way to divide it, on the basis of revenue, Mr. Sturgis does the example right?

A. Yes, sir.

Q. Three times twenty makes sixty?

A. Yes, sir.

Q. And that added to the 80 makes 140?

A. Yes, sir.

Q. And so providing you divide it in accordance with revenue, he is right?

A. His mathematical calculation, if he wants to assume that the State freight costs three times as much as interstate freight, in proportion to revenue, the cost of operating expenses divided exactly on the basis of revenue would make twenty; then he would multiply that by three, after the same method.

Q. If I understand you aright (look at your Exhibit 19) if you were going to divide the total expenses in accordance with the percentage of your revenue, 74.27 would represent the interstate
3971 and you are going to assume that the cost of the State business is twice as much, it would be twice 25.73?

A. Yes, sir.

Q. And then a proportionate part of that sum?

A. Yes, sir.

Q. So if you divide it in accordance with the percentage of tonnage, you would take your figures and work it out the same way, if that was the proper way?

A. Yes, sir.

Q. Or, if the proper way was to divide it according to division 8, per ton per mile, would you work it out upon the same system?

A. Yes, sir, I would take my two figures, whether ton miles, revenue, expenses, pears and peaches, men and women, and whichever I wanted to multiply by two, three, four, or five, make a new total, and get my percentage of that total.

Q. But what I want to get at is, is that the difference between you? If someone told you what the basis was, whether revenue or some other basis, you would figure it out just as Mr. Sturgis did; in other words, if you were told that the correct basis was the revenue basis, you would figure it out as Mr. Sturgis did?

A. Yes, sir.

Mr. LADD:

Q. In connection with these two exhibits, Nos. 28 and 29, on the fourth line of both of these sheets appears this language: "Other C. T. expenses." You do not allow any additional cost in connection with the State traffic on account of those "Other C. T. expenses"? The expense on account of "Othr*e* C. T. expenses" remains the same in all three columns? For instance, in
3972 Exhibit 29, it is 2.205 cents, precisely the same in all three columns.

A. Yes, sir.

Q. Therefore, you do not allow any extra expense on account of those "Othr*e* C. T. expenses" do you?

A. No, sir.

Q. What are they, those "Other C. T. expenses"?

A. Other conducting transportation expenses include the operation of stockyards, elevators, signal men, highway-crossing watchmen, policemen, signal supplies, highway-crossing supplies, clearing wrecks, injuries to persons, loss and damage, switching service, car service, hire of equipment, rent of buildings and other property, superintendence of transportation, floating equipment,—operation of elevation and longshore labor, dining cars, stationery and printing—transportation, incidentals; operation of joint tracks, yards and terminals, flood damages.

Q. Those items you have enumerated were pointed out to you by Mr. Johnson?

A. Yes, sir.

Q. You and he agree about that?

A. Yes, sir.

Q. In your opinion, is there any extra expense to be charged to the State traffic, over and above its normal proportion, on account of those expenditures?

A. No, sir, I do not think so.

Q. And for that reason you have not allowed anything extra on account of that?

A. No, sir.

3973 Q. In the next line is "C. T." (which I understand means conducting transportation) traffic expenses; you do not allow any extra expense to the State traffic on that account; will you tell what is included in that item?

A. The conducting transportation traffic expenses, freight, which are included in this,—only freight expenses being included,—comprises superintendence, foreign agencies, advertising, stationery and printing.

Q. You do not allow any increase on account of those?

A. No, sir.

Q. Do you think the State traffic ought not to be charged with any extra expense on account of that?

A. I do. As a matter of fact, I do not think they should be charged with the same proportion as the interstate, because I think the matter of advertising and foreign agencies would apply in much larger proportion to the interstate business than to the State business.

Q. The figures shown on these two sheets, Form 1940 and Form 1941, are figures for the system, which includes also the Iron Mountain Railway and the Central Branch in Kansas?

A. Yes, sir.

Q. I will ask you whether you think the average of expenses, as shown there, would be higher or lower in Missouri than those averages on the entire system?

A. In my judgment, the average expense per 100 ton miles would be much higher on the system as a whole, including all of the Missouri Pacific, the Iron Mountain, and the Central Branch, than they would be in the State of Missouri, for the reason that

3974 the density of traffic is much greater on the Missouri Pacific within the State of Missouri than it is on the Missouri Pacific system as a whole.

That is very clearly illustrated by the fact that the total freight earnings of the Missouri Pacific Railway and branch lines from freight during the year ending December 31, 1905, were $14,252,-616.73, of which the freight earnings in Missouri were $5,410,-246.39. That is, the State of Missouri furnished 37.96 per cent. of the freight earnings of the Missouri Pacific Railway, although only 25 per cent. of the mileage of the Missouri Pacific Railway lies within the State of Missouri.

Mr. HAGERMAN:

Q. Where did you get those figures? From any exhibit that has been offered?

A. I do not think those figures have been offered.

Mr. LADD:

Q. Where did you get them?

A. It is a statement prepared by Mr. Schuyler,—or given to us by Mr. Schuyler, showing the earnings of the Missouri Pacific as a whole, for us to check and verify other figures.

Mr. HAGERMAN:

Q. What does the $14,000,000 include?

A. Only the Missouri Pacific.

Q. It is just freight earnings?

A. Yes, sir.

Mr. LADD:

Q. What was the total mileage of the Missouri Pacific Railway which made those earnings of $14,000,000?

A. The mileage operated by the Missouri Pacific Railway Company is shown by the Annual Report of June 30, 1906, to have been 3,492.54.

3975 Q. And what is the mileage in Missouri?

A. 972 miles.

Mr. HAGERMAN:

Q. Those 14,000,000 and the 5,000,000 freight earnings you refer to the Missouri Pacific as distinguished from the system?

A. Yes, sir.

Q. This Form 1940 and 1941 apply to the system, as distinguished from the Missouri Pacific proper. That is, that included the Iron Mountain and Central Branch as well as the Missouri Pacific?

A. Yes, sir.

The earnings figure that I gave was for the railway only. We have not the earnings for the system for the calendar year 1905. But the freight earnings for the year ending June 30, 1906, are shown in the Annual Report of the president to have been $32,-563,506.77.

Mr. LADD:

Q. That includes the Iron Mountain and the Central Branch?

A. Yes, sir.

Q. Have you the earnings of the Missouri part of the system for that same period, the year ending June 30, 1905?

A. No, sir.

Q. Returning again to Exhibits 28 and 29, the next item is "maintenance of way and structures"; I see you do not allow any additional charge to the State traffic on that account?

A. No, sir.

Q. Why didn't you?

3976 A. In my opinion maintenance of way and structures would be the same per ton per mile in the case of State freight as in the case of interstate freight.

Mr. HAGERMAN:

Q. Are there any particular items that go in to make up that maintenance of way and structures? Have you anything that tabulates that so we will know what is included in it, in your mind?

A. It is right here in your Annual Report. The items of operating expenses included under the heading "maintenance of way and structures" are, track maintenance——

Mr. LADD:

Q. You do not charge to the State traffic any more in proportion, on account of track maintenance than you do the interstate traffic?

A. No, sir.

Q. Do you know of any reason why it should be charged any more?

A. No, sir, I can not conceive that a ton of freight moving over the tracks would wear the tracks any more because that ton happened to originate in Missouri, than it would if it originated in Ohio, Canada, Texas, or some other point.

Q. Go on.

A. The next item is "applying track material."

Q. What does that mean,—laying it down and putting it in place?

A. I imagine so. I should judge that was respiking the tracks and putting in new ties.

Mr. HAGERMAN:

Q. I suppose it is putting it in place?

3977 A. I can tell you exactly. (Witness examines Form 1941) "Applying Track Material."

This account includes:

(*a*) Rails.—Pay of employees engaged in handling (after first unloading), cutting, slotting, drilling, and laying rails, adzing for new rails, gathering old rails, and taking up expansion.

(*b*) Ties.—Pay of employees engaged in handling (after first unloading) and renewing cross, switch, and bridge ties; applying, inspecting, and marking ties in tracks for renewal.

(*c*) Ballast.—Pay of employees engaged in applying ballast after it has been prepared and unloaded, and removing dirt from stone ballast in tracks preparatory to re-ballasting.

(*d*) Other Material.—Pay of employees engaged in handling

(after first unloading) and applying rail braces, anti-creepers, switchers, switch stands, frogs, crossing frogs, tie plates, and other miscellaneous track material not mentioned above.

Mr. HAGERMAN: Wouldn't it be better to let him answer my question first, give a tabulation of the items that go into "maintenance of way and structures," so we will have it all in one place?

Q. Start again and tell us every item that is included in "maintenance of way and structures."

A. The operating expenses included under the heading of "maintenance of way and structures" are: Track maintenance;
3978 applying track material; roadway policing; flood damages; general cleaning; ballasting; track appliances; roadway tools; other roadway maintenance; interlocking plants and signals; engineering and superintendence; electric traction lines (of which I understand the Missouri Pacific has none). Rails, ties; bridges and culverts; fences, road crossings, and signs; buildings and grounds; steam plant—repairs of; electric plant—repairs of; docks and wharves; telegraph and telephone lines; stationery and printing; incidentals; maintenance of joint tracks, yards, and terminals.

Q. I observe on page 47 of the printed report of the Company for the year ending June 30, 1906, in the statement of the operating expenses of that year, the total expenses of the system for the maintenance of way and structures was $5,378,125.37, and that track maintenance was $1,505,708.61, that item being between ¼ and ⅓ of the total expense of maintenance of way and structures; now if in that book you have been reading from—it is a Missouri Pacific book, isn't it?

A. Yes, sir.

Q. The item of what is called "track maintenance" involving an expenditure of 1½ million dollars is given, I wish you would give them.

A. "Track Maintenance."

This account includes:

(*a*) Main Track Line and Surface.—Lining, surfacing, shinning and tightening bolts and spikes on main track.

3979 (*b*) Side-track Line and Surface.—Lining, surfacing, shinning and tightening bolts and spikes on side tracks.

(*c*) Gauging.—Gauging main track and side tracks.

(*d*) Re-spacing.—Re-spacing ties in main and side tracks.

Q. Is that all under the head of "Track Maintenance"?

A. Yes, sir, that is all.

Q. I think you have already explained that in your opinion the State traffic ought not to be charged with anything more than its proportion of its expense for track maintenance. Now go down through those other items which you have read off, and which Mr. Hagerman requests, under the head of "maintenance of way and structures." Do you see anything or can you point out anything in that list, whose maintenance would be any more expensive on account of the handling of the State traffic than the State traffic's normal proportion would indicate?

A. No, sir, I do not see anything that it would occur to me there

would be any increased expense on account of the State business, or anything on which the State should stand more than its per ton mile proportion.

Q. Something has been said in one of these cases, and possibly in this case, about sidings at stations at intermediate points on the road; are these sidings used exclusively for the State traffic?

A. No, sir, they are used for State and interstate traffic.

Q. Referring again to Exhibit 29, on the next line "M. E."
3980 means "Maintenance of Equipment;" you have not charged the State traffic, in this Exhibit 29, with any extra part of that outlay; why is that? What is your opinion about it?

A. I do not think the State should be charged with any more than its per ton mile proportion of the maintenance of equipment expenses. I can not imagine it would wear a car out any more to haul a ton of freight a mile if that ton of freight originated in Missouri, than if it originated in New York, Canada, Texas, or some other point.

Q. According to the Company's system of subdivision, what is included under the head of "maintenance of equipment"?

A. Superintendence, repairs of locomotives, repairs of passenger cars——

Q. I suppose you might omit that?

A. Repairs of freight cars; repairs of work cars; repairs of floating equipment; repairs of tools and machinery; stationery and printing; heating and lighting shops; watchmen; incidentals; equipment used in joint yards and terminals—repairs of.

Q. Take the first item "Repairs of Locomotives:" Is the same locomotive engaged at the same time in hauling State and interstate freight, in the same train?

A. Yes, sir.

Q. Under the head of "Repairs to Freight Cars" are the same cars used interchangeably, so far as they are suitable to the purpose, in handling State and interstate traffic?

A. Yes, sir.

3981 Q. Is there anything, any expense in that list of expenses under the heading "Maintenance of Equipment" which in your judgment should be taxed against the State traffic in any larger proportion than a normal proportion based on the business, and the revenue or the volume of freight?

A. I can not think of anything or any reason why the State business should be charged with more than its proportion on the per ton mile basis.

Q. And so you have excluded it from your computations?

A. Yes, sir.

Q. And have not allowed any extra expense on any of those accounts?

A. No, sir.

Q. You have allowed in the second column of Exhibit 29 double the expense for train and engine service on the State traffic per ton per mile?

A. Yes, sir.

Q. Do you think that is right?
A. No, sir, I do not. I think——
Q. Is it too much or too little, twice?
A. In my opinion it is a great deal too much.
Q. Your assumption is, then, more favorable to the Complainant than your own personal opinion justifies?
A. Yes, sir.
Q. Do you think that the State traffic should be charged with any extra cost on account of the train and engine service?
A. Yes, sir.
3982 Q. Why?
A. Because I think the ton miles of State freight handled on local trains is in excess of the proportion which the total ton miles of State freight bear to the total ton miles of both State and interstate freight together.
Q. Do you think the cost of handling local trains or way trains, is greater than the cost of handling through trains?
A. Yes, sir, I think the cost of handling a ton of freight a mile on a local or way freight train, on the average is greater than the average cost of handling a ton of freight a mile on the through train.
Q. And because the proportion of State freight carried on the local or way trains is larger than the proportion in volume of State freight to all the freight, therefore the State freight should be charged with some additional expense incident to the operations of those local or way trains?
A. Yes, sir, that is my idea.
Q. Do you think that State freight should be charged with all the additional extra expense attendant on the operation of the local or way trains?
A. No, sir.
Q. Why not?
A. Because in my opinion the local and way trains carry more interstate freight than they do State freight. I mean by that, that of the total ton miles of freight handled by the local or way trains, more than half is interstate freight and less than half is State freight.
Although I think the proportion of the State freight which
3983 is handled on local trains is greater than the proportion of State freight to all freight, still the State freight is such a small proportion of the total freight, being only 14 per cent., that of the total business handled by the local trains, the larger part is interstate freight and the smaller part is State freight.

The MASTER:

Q. Do you think the whole additional cost which you are willing to admit, arises from the difference on cost of handling local or way trains, and through trains?
A. Yes, sir. The cost of transporting a ton of freight a mile on a local train as compared with the same service on a through train.
Q. That is the reason you are willing to concede some additional cost?

A. Yes, sir, and so——

Q. Now if it be that these local or way trains carry more interstate freight than State freight, why should not the interstate freight bear more than its half of the additional cost of these local trains?

A. If the local trains carry a larger per cent of ton miles of State freight, than the volume of the total business would warrant, then that excess should be larger against the State, on the basis of the excess. And when you apportion that excess to the State freight, on the same principle that we had this forenoon in the ton mileage, in the case of train and engine mileage, you equalize all the other expense.

3984 That is to say, if your total expense for all of the freight is $100, and, for the purpose of illustration, 50 per cent. of all the ton miles was State freight, and 50 percent. of all the ton miles was interstate freight; and the tonnage of the local trains and the tonnage of the through trains were each 50 per cent., then it would be proper to say that half of that total expense of that $100 was State expense and half was interstate expense.

But if the proportion between the State and the interstate freight is 50 and 50, and the tonnage of the local trains instead of being 50 per cent: State and 50 per cent. interstate was 60 per cent. State and 40 per cent. interstate then there would be 10 per cent. of the State tonnage that should bear the increased proportion of that total expense of $100.

You would not increase your expenses of $100. That would remain fixed. You have your expense fixed. But there would be ten per cent. of the total freight, which in the case I have cited would be State freight, which would cost more than the other 90 per cent.

If you have determined that cost, and we will assume for the sake of the argument that it costs twice as much to do business on the local trains as to do business on the through trains, per ton per mile, then you would say that ten per cent. should be multiplied by 2, or should be made 20/110 of the total expenses; and 40 per cent of the State freight, and 50 per cent. of the interstate freight, would be divided equally between the balance of the expenses;

3985 that is, in their percentage ratio.

Q. Leave out of account for a moment the consideration of the through trains, and consider only the local or way trains.

A. Yes, sir.

Q. Is there a larger per cent. of ton mileage State than of ton mileage interstate freight on those local trains?

A. No, sir, there is a larger per cent. of ton miles interstate freight on those local trains than there is State ton miles on those local trains.

Q. And yet you say in your system of figuring, notwithstanding that fact, the State freight ought to be allowed credit for some additional cost?

A. Ought to be charged some additional cost.

Q. Yes, charged.

A. Because although the local trains carry more interstate than State freight, they carry less interstate than the proportion of all

the interstate freight to the total freight; and they carry more State freight than the proportion of all the State freight to the total freight.

Q. It seemed to me that as the additional cost, if there is any, arose from the operation of the local trains as compared with through trains, that additional expense ought to be charged to that class of freight which occasioned it; that would seem to me to be so.

A. Yes, sir. This example I have given here, by using
3986 these percentages would result in actually that condition, That although the State freight tonnage would be charged more per ton it would not be charged with as large a percentage as the interstate, because the interstate tonnage would be so much greater.

I want to say, if I may, Your Honor, that in the expense we are talking about just now, I was referring my remarks to the train and engine service.

Q. You think the total expense is made up of those two items?

A. Those two are included in the total operating expenses.

Q. And no other items that go to make up the increased cost of moving local trains?

A. That is my idea exactly.

Mr. LADD:

Q. Assuming that the tone of interstate freight on local or way trains exceed that of the State freight, does it follow that the ton miles of interstate freight would be a larger percentage than the percentage of tons, on account of their longer haul?

A. Yes, sir. If the volume of tonnage was the same and the interstate was hauled farther, the interstate ton miles would exceed the State ton miles.

Q. Is the interstate freight hauled farther?

A. Yes, sir. We find that in the State of Missouri the interstate freight is hauled on an average more than twice as far as the State freight.

Mr. HAGERMAN:

Q. How about the actual tonnage moved, as distinguished from ton miles.

3987 A. The interstate tonnage, the number of tons, is fixed as 75.26.

Q. That is of all the business in the State?

A. Yes, sir.

Q. Have you it for the way trains?

A. We have your exhibit which shows about 41 per cent of the tonnage on local trains is State, and some 59 and a fraction per cent. is interstate.

Q. Which exhibit was that?

A. Exhibit 14, which was to be corrected and handed in but we have not yet received it. I do not know whether Mr. Roth has it here or not. Those figures I have given are after making a correction which Mr. Roth told me should be made in it.

Mr. LADD:

Q. One more item on this 28 and 29. It is the last one. "General expenses:" You do not charge the State traffic with any more than its natural proportion of that expense. Now what in that schedule is included under the head of "General expenses," according to the Missouri Pacific's system of accounting?

A. The operating expenses included under the heading of "General expenses" are: General officers, clerks, attendants, heat and light, office expenses and supplies, incidentals, law expenses, stationery and printing, insurance.

Q. Is there anything there, in your judgment, Mr. Ludlam, of which a larger proportion than a natural proportion
3988 should be charged to the State traffic, and if there is, point it out.

A. No, sir, there is not anything here. If I made any distinction at all it would be to charge the interstate with more than the state, because I think that more time of the general officers and clerks is given to interstate business than to State business.

Mr. HAGERMAN:

Q. What would you do with the expenses of this lawsuit, for instance; that has nothing to do with interstate?

A. I should imagine that would be purely a State expense.

Q. With nothing to be charged to interstate?

A. I should think so, yes, sir. That is an expense which you could aggregate between State and interstate. Of course a majority of your general expenses you could not do so. You could not separate your officers' salaries and office expenses, etc.

Mr. LADD:

Q. Why do you say with respect to the salaries of the general officers, that more should be charged to interstate in proportion? Why do you say that?

A. Well, I think, speaking in a general sense, that the State business is a business that largely takes care of itself. The rates seldom change. They remain stationary. The clerks in the offices that are engaged in checking waybills, checking agents' accounts, are familiar with them. The revising of the way bills is a very simple matter. The clerks are familiar with those rates. Whereas, on nearly every interstate shipment the rates change, or the
3989 proportions change, or the routing is different. The average revising clerk, in my judgment, would be able to check several bills carrying State shipments in the same time it would take him to check one bill in an interstate shipment. And the same would hold good throughout the entire business.

The officers spend time attending traffic associations and considering rates. Those are not State rates, which run along the same year in and year out. The State business is largely a non-competitive one, whereas the interstate is very largely competitive. And the more competition there is the more time and attention it takes of the officers and clerks.

Q. At all events, it is because you entertain these opinions that you have in this statement not embraced any additional expenses on account of State traffic, so far as regards several items, large items, too, of expenditures included in operating expenses?

A. Yes, sir.

Q. Mr. Ludlam, I will get you to state, from your experience, both your connection with railroads and railroad accounts, and your experience as an accountant and auditor of accounts, including your experience in the examination of the books and papers of the Wabash and the Missouri Pacific Railroad for the purposes of this litigation. What unit, in your judgment, affords the closest approach to accuracy, as to either cost or revenue in the handling of freight?

3990 A. In my judgment the best unit known, and I think it is generally so recognized among the railroad men, is the per ton per mile unit.

Q. Some of your exhibits here, at least some of them, are based upon the ton mile, both as to cost and earnings as the unit: Is that the reason you have taken that as the basis of a number of these computations, that you regard it as the best attainable basis to work on in ascertaining cost and revenue?

A. Yes, sir.

Q. Do you know, from your experience and associations with railroad managers and railroad accountants, and your auditing of railroad accounts, the accounts of other railroads, whether that is a recognized and approved unit in railroad circles?

A. That is the generally recognized unit, yes, sir.

Q. Some exhibits have been prepared and presented and offered in evidence here on the part of the State, which relates to the business of particular periods; Exhibit 19 is an illustration of them, which relates to the business of October. And then there have been certain days in certain months; I would like to ask you whether any particular days or any particular periods have been selected by you or your assistants in the preparation of these exhibits, because you supposed they would make a more favorable showing for the State than any other periods or any other days?

A. No, sir. Wherever a period or a day has been selected, it has been selected because it was believed to be as typical

3991 or more typical than any other that could be selected.

Mr. HAGERMAN:

Q. Don't you think October is more favorable to you than any other month that could be selected?

A. October has a larger business but is not more favorable.

Q. Would that represent more or less than 1/12 of the business?

A. Yes, sir.

Q. Would ten times that represent the year's business?

A. I should say ten to eleven times.

Q. I do not mean to indicate for a moment that you selected it purposely, but I know it is one of the big months of the year, and I want to get its proportion.

Mr. LADD:

Q. Do you regard October as a fairly representative month? I do not mean as regards the volume of the business, but is it fairly representative?

A. We so regarded it before we started the work, and we still so regard it.

Q. I do not mean to ask you by that whether every other month would have the same amount of business as October.

A. I think the result- obtained from an analysis of the month of October are typical of the year's business; and I do not think the analysis of any other month would vary materially from the results shown by October.

3992 Of course we have not introduced any other month and so can not compare them; but in our judgment there would be no material variation in the figures shown by October, from the showing of any other month in the year.

If there is any one month we would regard as typical it would be October, because we think there would be more business of all kinds moving in October than any other month.

Q. October is generally regarded as a good business month?

A. Yes, sir, both from the standpoint of merchandise and of farm products.

Mr. HAGERMAN:

Q. It is a good grain and livestock period, too, isn't it?

A. I should think it would be a large grain moving month, but not especially large as to live-stock. Of course that would vary in different sections of the country.

Q. Two exhibits have been prepared and filed here in evidence by the Complainant, Exhibits 7 and 8, showing the freight handled, one in carload lots and the other in less than carload lots at 88 stations in the State of Missouri?

A. Yes, sir.

Q. Do you know for what month and for what period that examination covered?

A. I understand that covered the month of October.

Q. The same month you selected?

A. Yes, sir. It is not stated on the exhibit, but I think in the testimony as I recall it, it was said that covered the month of October, 1905.

3993 Mr. LADD:

Q. That is right, isn't it, Mr. Doddridge?

Mr. DODDRIDGE: Yes, I feel certain it was October. I think October was taken because you had October under consideration here generally.

Mr. HAGERMAN:

Q. You knew they were looking at October, and you took it for that reason?

Mr. DODDRIDGE: Yes, sir, I think that was the reason.

The MASTER: I have October marked on my exhibit.

Mr. LADD: Now in this statement Exhibit 19 which is in, and which you prepared, showing the business of the Company during the month of October, 1905, you did not divide, for the reasons you have already stated, the interstate business into two classes?

A. No, sir.

Q. If you had so divided it, what in your judgment would have been the revenue per ton on the through interstate freight as compared with the revenue derived from all the interstate carload as shown by the exhibit; would it have been more or less?

A. In my judgment it would have been less.

Q. Could you make an estimate of how much less?

A. Yes, sir. I do not think the revenue realized from the interstate through business would have exceeded 5 mills, or ½
3994 cent per ton per mile. And my opinion is it would have been nearer 4½ mills per ton per mile than 5 mills per ton per mile.

Q. That statement shows the average revenue per ton per mile on all the interstate carload business to have been about 6 1/3 mills; is that right?

A. Yes, sir, that is right.

Q. And you think on the through interstate business, that which passes through the State, starting out of the State and ending out of the State, it would not have been over 5 mills; is that right?

A. Yes, sir, not over 5 mills.

Q. Why do you think so?

A. Because that business that begins out of the State and passes through the State and terminates outside the State is very largely competitive business. Whereas, there is a large amount of the second class of interstate freight that is not competitive and on which the rates are higher than they are on that competitive business.

Q. Did you prepare, or have you prepared, or are you familiar with the preparation which has been made under the supervision of yourself and Mr. Taliaferro of exhibits which I will offer before I examine you about them?

A. Yes, sir.

Mr. LADD: I will offer in evidence this paper as Defendant's Exhibit 30.

This Exhibit 30 is in the words and figures following, to wit:

3995 Mr. LADD: I will offer in evidence a statement as Defendant's Exhibit 31.

Exhibit 31 is in words and figures following, to-wit:

3996 At this point the witness Charles S. Ludlam, was temporarily withdrawn, and the witness H. ROTH, was re-called, and testified as follows:

Recross-examination.

By Mr. S. B. LADD:

Q. What was the amount of revenue on freight handled at the Grand Avenue Station in Kansas City, credited to Missouri in the statement Exhibit 5-*a*?

A. I have no figures giving the figures you asked for, Mr. Ladd. Only a certain proportion of this is revenue. You asked me to furnish the figures of the revenue derived from traffic from the north into Grand Avenue, and not all the revenue of Grand Avenue.

Q. Well.

A. For the year 1904 it was $843.04; for the year 1905 $1,278.27.

Q. Now those freight earnings from shipments from points north of Kansas City, Missouri, to the Grand Avenue Station in Kansas City, Missouri?

A. Yes, sir. That is freight from the Kansas State line to Grand Avenue.

Q. About a mile or something like that?

A. Yes, probably a little more.

Q. That is Missouri's proportion: You call that Missouri's proportion?

A. Yes, sir.

3997 Q. Now from the north, you mean from the line running to Omaha, for one thing?

A. Yes, sir.

Q. And its branches into Nebraska?

A. Yes, sir.

Q. And the revenue coming off the Central Branch running into Kansas and northwestern Nebraska: Is that right?

A. Correct.

Q. And from the old Kansas City and Northwestern: Is that right, too?

A. Yes, sir, that is right, too.

Q. I will ask you, then, what is the mileage from the State line, for instance,—does that also include freight coming from St. Joe, down there, too?

A. Yes, sir, it would include any, if there happened to be any.

Q. Anything north or northwest?

A. Yes, sir.

Q. What is the mileage of those north lines and the northwest lines I have mentioned?

A. The total mileage?

Q. Yes.

A. I cannot say, off-hand.

Q. Could you approximate it?

A. Yes, sir, I could.

Q. It is a mile in Missouri: Now how many miles is it out of Missouri?

3998 A. Between eight and nine hundred miles.

Q. These two amounts which you have given me 800 odd dollars and 1200 odd dollars are included in Exhibit 5, are they?

A. Yes, sir.

Q. In Missouri's earnings?

A. Yes, sir.

Q. In switching receipts at those Kansas City terminals, included in Missouri's earnings, as shown by Exhibit 5-*a*?

A. Yes, sir. For the year 1904 $42,804.75. And for the year 1905 $54.802.01.

Q. What was the source of those moneys?

A. It was revenue collected for switching service rendered, and for demurrage.

Q. Rendered to whom?

A. Foreign roads or industries there at Kansas City, either on Missouri freight or Kansas freight.

Q. Now take this $42,804.75: Is that all you received during 1904 in money for switching for foreign roads or industries?

A. That is the net amount we received.

Q. What constitutes the net amount?

A. The total we received was $150,101.93; and we paid out to foreign roads $107,297.18, which left a net balance of $42,804.75.

Q. You received from other companies, the amount first mentioned, for switching for them; and you paid out to other
3999 companies for switching which they did for you, the last amount; and the difference between the two is $42,804.75: Is that right?

A. Yes, sir.

Q. That is for 1904?

A. Yes, sir.

Q. Give me the corresponding amount for 1905.

A. $187,254.15.

Q. That is the amount you received?

A. Yes, sir. We paid out $132,452.14.

Mr. HAGERMAN:

Q. Have you this in the form of an exhibit?

A. Yes, sir.

Q. These questions that Mr. Ladd asked you about, have you in a tabulated form?

A. Yes, sir.

Q. Please put them in as exhibits.

Mr. HAGERMAN: I offer in evidence the statement referred to as Complainant's Exhibit 32.

Complainant's Exhibit 32 is in the words and figures following, to-wit:

4000 Mr. HAGERMAN: I offer in evidence the statement referred to as Complainant's Exhibit 33.

Complainant's Exhibit 33 is in the words and figures following, to-wit:

4001 Q. What is Exhibit 32?
A. Switching.
Q. What is Exhibit 33?
A. Exhibit 33 is Grand Avenue.
Q. What is the other paper you have there?
A. This paper is Exhibit 14-a.
Q. That is the one upon which you were to make corrections of Exhibit 14?
A. Yes, sir.

Mr. HAGERMAN: I will offer in evidence the paper referred to as Complainant's Exhibit 14-a.

Complainant's Exhibit 14-a is in the words and figures following, to-wit:

4002 Mr. LADD:

Q. These amounts mentioned are those received by you for switching cars for other railroad companies, and those made out by you to other railroad companies, for switching cars for you: Is that right?
A. Yes, sir, that is right?
Q. These do not embrace switching, any of them, which your company did for itself and of its own freight, up in those yards?
A. No, sir, we would not have any earnings upon that. But that would embrace a whole lot of switching that would not enter into the State of Missouri.
Q. What?
A. These figures do not necessarily follow this Missouri freight, that is credited to Missouri.
Q. Can you make an estimate of what would be Missouri's proportion?
A. No, sir, I cannot. There are no means of dividing it at all.
Q. This 42,000 in 1904 and 54,000 in 1905 is net, isn't it?
A. Yes, sir, net.
Q. Over and above all the expenses: It has not anything to do with the expenses of the yards?
A. No, sir, it has nothing at all to do with the expenses. Except that we incurred the expense on the switching we performed.
4003 Q. The expense of those terminals is something, according to your figures, in round numbers $800,000 a year?
A. No, sir, I do not think it is as much as that.
Q. Have you seen this Exhibit 11 which was offered in evidence by the Railway Company?
A. (After examining Exhibit 11:) No, sir, I have not seen that before.
Q. It purports to be terminal expenses for those months?
A. Yes, sir.
Q. If that is correct, it is about $800,000?
A. I should say not.
Q. Not after looking at that paper?
A. Yes, sir, after looking at that paper. I understand this is for six months.

Q. How much is it for six months?
A. It does not necessarily follow that it would be double for 12 months.
Q. How much is it for six months?
A. $400,000.
Q. It does not necessarily follow, you say, that if it were $400,000 for six months it would not be $800,000 for 12 months?
A. Yes, sir.
Q. You have nothing to do with the expenses?
A. No, sir.
Q. Your part is connected with the earnings?
A. Yes, sir.

4004 Q. You do not know what the terminal expenses were up there, do you?
A. No, sir, not fully.
Q. Look at Exhibit 14-a and Exhibit 14: Now in the column under the head of less than carload State, pounds, in Exhibit 14, it was 288,478 pounds?
A. Yes, sir.
Q. In the corrected copy, Exhibit 14-a, it is 28,847 pounds?
A. Yes, sir.
Q. That I take it was simply a clerical error?
A. Yes, sir, a clerical error.
Q. Who discovered it?
A. I discovered the clerical error.
Q. Who called your attention to it?
A. Mr. Taliaferro, I believe.
Q. First?
A. Not to the error. But he thought there was something wrong about the figures. He had previously seen the statement in detail, but, like myself, he had not noticed it.
Q. Who first called your attention to the $288,478: Did you discover it yourself?
A. No, sir, I have just said Mr. Taliaferro called my attention to it.
Q. Mr. Taliaferro called your attention to it?
A. Yes, sir.

Q. And when you came to look into it in response to
4005 his suggestion you discovered there had been a clerical error in it?
A. Yes, sir.

The usual hour having arrived at this point, the further hearing of testimony was adjourned until to-morrow, Friday, February 9, 1907, then to be resumed in the Federal Building at ten o'clock in the forenoon.

4006 ST. LOUIS, MISSOURI, FRIDAY, *February* 9, 1907.

Met pursuant to adjournment as above on Friday, February 9, 1907, in the Federal Building in the City of St. Louis, Missouri, at ten o'clock in the forenoon.
Present: Hon. F. L. Schofield, Special Master.

Mr. Frank Hagerman appeared in behalf of the Complainant.

Messrs. S. B. Ladd and John Kennish appeared in behalf of the Defendant.

The following proceedings were had:

By consent of counsel for Complainant, the witness Charles S. Ludlam is temporarily withdrawn.

M. C. McKee, a witness of lawful age, being duly produced, sworn and examined, on the part of the Defendant, testified as follows:

Direct examination.

By Mr. S. B. Ladd:

Q. What is your name?
A. Michael C. McKee.
Q. And your age?
A. A little past 50.
Q. Where do you live?
A. Kansas City, Missouri.
Q. What is your present occupation?
A. Police Officer.
4007 Q. On the Metropolitan Police Force in Kansas City?
A. Yes, sir.
Q. How long have you been on that force?
A. Four years.
Q. How long have you lived in Kansas City?
A. Since 1863, in Jackson County. It has always been my home. Of course I have been in and out of there.
Q. Have you ever worked for railroads?
A. Yes, sir.
Q. What railroad did you first work for?
A. The Missouri Pacific.
Q. When did your service begin?
A. When the Missouri Pacific absorbed or bought the old narrow gauge road, as we call it, the Kansas City, Wyandotte and Northwestern, along about 1880 or 1881. When they bought that road, or Mr. Gould absorbed that road, I went with it.
Q. To go back a moment, you were subpœnaed to come here?
A. Yes, sir.
Q. When did you get here?
A. Yesterday morning.
Q. You were subpœnaed the day before?
A. Yes, sir, I was subpœnaed the day before that, that would be Tuesday.
Q. Did the Chief of Police know you were coming here?
A. Yes, sir.
Q. You had leave, did you?
A. Yes, sir.
4008 Q. When did you commence working for the railroad company, what year?
A. The Missouri Pacific proper?
Q. Yes.

A. I should judge it was 1880 or 1881. My service continued, you know, from 1874 to 1875. I was quite a youth when I went with them. I continued with the Narrow Gauge until the Gould interests bought it, and then I passed into their control and went on the main line.

Q. You were working on what you call the "Narrow Gauge", from 1874?

A. Yes, sir.

Q. And you continued with it until in the '80's sometime, when it was absorbed by the Gould interests?

A. Yes, sir.

Q. And then you went with the Missouri Pacific?

A. Yes, sir.

Q. What were the nature of your duties?

A. Part of the time in the locomotive department; for a number of years; and then, from 1882 until 1897, in the train department. About 15 years in that department, running a train.

Q. From where?

A. Between Sedalia and Kansas City.

Q. In what capacity?

4009 A. Conductor. Part of the time also yard master at different points.

Q. You were yard master part of that time?

A. Yes, sir.

Q. Where?

A. At Lexington and Independence.

Q. At Kansas City any of the time?

A. No, sir.

Q. You were at Lexington and Independence part of that time?

A. Yes, sir.

Q. But most of the time you were conductor on a freight train?

A. Yes, sir.

Q. Your service there terminated in 1897, about ten years ago?

A. Yes, sir.

Q. How did it terminate?

A. On account of a wreck at Little Blue.

Q. You were in charge of the train there?

A. Yes, sir.

Q. And were you discharged?

A. I was, as a matter of discipline.

Q. Was there any feeling between you and the officers of the railroad company, on account of that?

A. Nothing but friendly feeling, and always have been ever since.

Q. I will ask you, generally, if you were to blame for the wreck?

4010 A. Well, in the way the railroad company's rules are used, I was, indirectly. I had charge of the crew. All the fault was in my men, while I was back in the office, signing orders, but being in charge of the crew I was held responsible.

Q. After that, what did you do?

A. I went to Colorado for a few months.

Q. How did you get out there?
A. On transportation furnished by the Missouri Pacific, complimentary.
Q. Go on.
A. Then I returned to Kansas City——
Q. Did you work on any railroad in Colorado?
A. On the Colorado Southern for a few months, but I did not like the location, so I returned to Kansas City.
Q. You came back to Kansas City?
A. Yes, sir.
Q. Then what did you do?
A. I took charge of Armour's yards for three years or more.
Q. What are Armour's yards?
A. He has a large yard there, in which he handles his products, ingoing and outgoing products. The stuff coming into his house, and the product going out. Repairing and building cars. You might call it a general yard, with his own equipment, except the engine; that was furnished by the Frisco.
Q. You mean the yards of the Armour Packing Company?
A. Yes, sir, their private yards.
4011 Q. They have yards of their own?
A. Yes, sir.
Q. And equipment and tracks of their own?
A. Yes, sir, all except the motive power. They have not any motive power.
Q. You were yard master there?
A. Yes, sir.
Q. And had charge of those yards?
A. Yes, sir.
Q. What were your duties there?
A. My duties were to attend to the orders of cars coming in and to the placing of all necessary supplies for the houses, at the proper unloading yards; and seeing that the products, the output of the houses, went to these various railroads; that it was checked out properly, and was put in proper rotation to the different roads. Of course, that was handled by the Frisco. In fact, I acted as a check against the Frisco yard-master, worked in connection with him.
Q. Are those private yards of the Armour Company contiguous to the State line yards?
A. They have connection to the State line yards.
Q. Are they in that immediate neighborhood?
A. Yes, sir, the principal part of the Armour yards is up near the State line yards.
Q. How long were you there?
A. Something in the neighborhood of three years.
Q. How far are those yards from the tracks of the Missouri Pacific—those yards are north of the Missouri Pacific aren't they?
4012 A. Yes, sir.
Q. How far are they north from the tracks of the Missouri Pacific in the terminal yards at the State line would you estimate?

A. Well, I would estimate that the nearest connection directly south of the Missouri Pacific, I should judge—this is simply my judgment, as I haven't any way of getting at it—would be about twelve to fifteen hundred feet at Ewing Street.

Q. Does the Missouri Pacific Railway have an east and west track there, running up north toward the Armour yards?

A. Yes, sir.

Q. Did I ask you how long you were engaged at the Armour yards?

A. Yes, sir.

Q. How long, four years?

A. Something over three years.

Q. What did you do after that?

A. The position was abandoned, and made more of a clerical place, and I went to the Frisco.

Q. In Kansas City?

A. Yes, sir; in the capacity of a switchman.

Q. How long were you with the Frisco in Kansas City?

A. Several months. These dates, of course I never kept any record of them, and am giving them as close as possible. For several months, I was switchman, and foreman of an engine crew.

Q. Where were your duties there, in the west bottoms of Kansas City?

4013 A. South to Rosedale, north to the Armour plant, and different connecting lines in and about Kansas City, making deliveries to all of them.

Q. Were they all west of what we call "the bluffs", down in the west bottoms of the city?

A. Yes, sir.

Q. You stayed there several months?

A. Yes, sir.

Q. Then what did you do?

A. I went to the Missouri Pacific.

Q. You were re-employed by the Missouri Pacific?

A. Yes, sir.

Q. In what capacity?

A. Switchman.

Q. Where?

A. State line and vicinity.

Q. Where?

A. The State line yards, we call it, or the Kansas City terminals, we call it.

Q. How long were you in that employment?

A. Well, it must have been nine or ten months. As I explained before, I did not keep any track of the dates.

Q. About what wages did you get?

A. I think we averaged from ninety to ninety-five dollars per month, switchmen and helpers.

Q. You were there, say, nine or ten months?

A. Yes, sir.

Q. Did you leave the service voluntarily?

A. Yes, sir.
4014 Q. No difficulty?
A. No, sir.
Q. Nothing like a discharge?
A. No, sir.
Q. Then what did you do?
A. I left there to accept an appointment on the police force.
Q. You have been there ever since?
A. Ever since.
Q. During those nine or ten months, you think that was about the time of your last employment with the Missouri Pacific?
A. Yes, sir.
Q. How much of your time was spent up about the State line yards?
A. Every day, portions of it.
Q. You did not go out on the road at all?
A. Not outside the terminals.
Q. Your service was right there in the terminals?
A. Yes, sir, in the terminals.
Q. At my request, have you recently been to the State line yards, and East bottom terminals, and spent some time in observing the present method of handling business there?
A. Yes, sir.
Q. How many days did you take for that?
A. Last Tuesday and Wednesday.
Q. Did you have an associate go with you?
A. Yes, sir.
Q. What is his name?
A. Mr. Woods, a brother officer.
4015 Q. Another officer on the Kansas City police force?
A. Yes, sir.
Q. Who had also been in the employment of the railroad company?
A. Yes, sir, that is his profession.
Q. Up there about those yards?
A. Yes, sir.
Q. You know what the Cypress Yards are, do you?
A. Yes, sir, I do.
Q. Look at this paper which I will hand you now, entitled, "Missouri Pacific Railway Company, Kansas City Terminal Division, between Leeds and Ramapo, Congo and Kansas City Southwest Junction, being Time Table No. 7, Taking effect on Sunday, November 11, 1906:" where did you get this?
A. At the office of the Superintendent of Terminals, or the Yardmaster's office, in Kansas City.
Q. On the last page of this time-table is a sketch of those terminals, isn't there?
A. (After examining time-table.) Yes, sir.

Mr. LADD: I will offer in evidence this map as "Defendant's Exhibit No. 34."
Which exhibit is as follows, to-wit:

4016 Q. During the nine months you were in the employment of the company, just before you went on the police force, in what part of these terminals were you principally engaged, and your time occupied?

A. From the Cypress Yards to Leeds; I never went as far north as Ramapo.

Q. But from Cypress yards to Leeds?

A. Yes, sir, including the Cypress yards.

Q. The Cypress yards, it has been said here, are in Kansas, west of the State line: that is your understanding?

A. Yes, sir.

Q. What is there over at the Cypress yards?

A. Well, there is a regular railroad yard, for making up and breaking up trains, round-house, coal chutes, water-tanks, repair tracks, and a general railroad yard. That would just about include the whole thing. Then there are stock yard facilities for loading and unloading stock, at the same place, in connection with the Cypress yards.

Mr. HAGERMAN:

Q. That is only at the quarantine?

A. No, sir, the entire stockyards business of the Missouri Pacific, quarantine and all, are unloaded there.

Q. Over at Cypress, at the Kaw River?

A. No, sir, at the State line.

Q. Do you call it "Cypress" after you get on the east side of the Kaw River?

A. We call it Cypress to west of the State line.

Mr. LADD:

Q. Are the Cypress yards east or west of the Kaw River?

4017 A. West—well the Kaw River runs through it; it runs west of the State line. There are sixteen hundred feet—about that I should judge. I don't know what you would call it if not the Cypress Yards, because it is west of the line. There is no other name for it that I ever heard. They formerly called it the State Line Yard, but that was obliterated.

Mr. HAGERMAN:

Q. What we want to know is what you call the Cypress Yard?

Mr. LADD:

Q. Does this map (Exhibit 34) go far enough west to show all the tracks?

A. No, sir.

Q. Where is the place where they store the cars, and their repair tracks?

A. West of the Kaw River.

Q. That is what has been called the "Cypress Yards"?

A. Those are west and north of the rivers.

Mr. HAGERMAN: He is not calling the same thing "The Cypress Yards" that we have been calling the "Cypress Yards."

Mr. LADD:

Q. Do you call "The Cypress Yards" those that lie east of the State line?

A. These are all connecting tracks into the Cypress Yards.

Q. What are distinctly called "The Cypress Yards."

A. That would be a matter of question.

Mr. HAGERMAN:

Q. What do you call "The Cypress Yards"?

A. I call it "Cypress Yards," and that man (indicating) might call it "State Line Yards." If I were ordering an engine to go to the Cypress Yards, I would say "Cypress Yards, Track Number So-and-so."

4018 Mr. HAGERMAN: Let us get it plain, exactly what he means when he says "Cypress Yards."

Mr. LADD: I think I will get it, if you give me a little chance.

Q. This map does not go far enough west to show all the tracks?

A. No, sir.

Q. What is there over here, west of the Kaw River, in the shape of tracks?

A. There are over thirty tracks there.

Q. What use is made of those tracks: First, which way do they run?

A. First west, and then bearing to the north.

Q. What use is made of this net-work of tracks lying west of the river (indicating on Exhibit 34)?

A. They are used for storing cars, repairing cars, making up and breaking up trains, cleaning coaches, cleaning engines, and making necessary like repairs on cars. Just general terminal work for a railroad.

Q. How many tracks do you say are west of the river?

A. Thirty or more; I don't know how many more.

Q. Suppose, for the sake of avoiding any confusion in the matter, we call these the Cypress yards that are over here west of the river, that net-work of tracks——

Mr. HAGERMAN: I object to that. He has told us what he called the Cypress Yards. I don't want to lose the benefit of the credibility of the witness.

The MASTER: I think it is less likely to result in confusion, if you allow him to indicate by description what particular
4019 part of the yards he refers to. There is some confusion now existing between his description, and what has heretofore been called "The Cypress Yards."

Mr. HAGERMAN: I do not want him, for the purposes of this case, to call something else the Cypress Yards.

Mr. LADD: Some might call it "Cypress Yards" west of the river, and some might call it "State Line:" that's what he said.

Mr. HAGERMAN: Let him state what he thinks about it. He can describe what is down east of the river and what is down west of the river.

Mr. LADD:

Q. Did you count these north and south tracks west of the river?
A. Most of them. We got over thirty.
Q. That is, west of the river?
A. Yes, sir.
Q. You say those run east and west some distance, and then turn north?
A. Yes, sir.
Q. Here is a black line west of the river, running in a northwesterly direction: is that intended to represent the main line of the Missouri Pacific, on its way to Leavenworth?
A. Yes, sir.
Q. I will show you Exhibit 1, which is a map of the Missouri Pacific Railway system. Here is Kansas City on this map. Where, at Kansas City, are trains that come down to Kansas City from the north, and from the northwest, on the Kansas City Northwestern, to St. Joe and Omaha, and up into Nebraska and the Central
4020 Branch, broken up.
A. Trains from the north are broken up in the Cypress Yards.
Q. Are they broken up east or west of the Kaw River?
A. West of the Kaw River.
Q. What is done with them when they get down there? What do you mean by "breaking them up"?
A. Separating the stuff for different connections. Stuff for Kansas City proper, and for eastbound and southbound trains.
Q. You said the train was broken up there: suppose in that train there is some stuff for St. Louis, going further east: what is done with that stuff in the yards west of the river?
A. That is separated from the city stuff, or stuff for the Santa Fe or the Union Pacific, or the different connecting lines, and broken up into transfer order.
Q. What do you mean, "broken up into transfer order"?
A. The better way to explain that would be to say, we cut a bunch of St. Louis stuff in the Cypress Yards, and take it to the East yards in Kansas City, and there it would be placed in a train for St. Louis.
Q. You mean down here by the Southwest junction?
A. Yes, sir.
Q. So there are half a dozen cars in that train from the north for St. Louis, and you say the train is broken up, and these cars are put by themselves on the west side of the Kaw River?
A. Yes, sir.
4021 Q. What becomes of those half dozen cars?
A. They are taken to the east yards.
Q. By an engine?
A. Yes sir. To go a little further, say there is stuff for Memphis, St. Louis & Pueblo points; there are three different, separate lots to be separated. The transfer engine would pick up one bunch, double up on one, double up on another, and take them all to the east yards, and take them to their respective points.

Q. And when those trains are completed in the east yards, they are started out on their journey?

A. Yes sir, and the same would hold good on the cars from the east going north. They would be broken up in the east yards, taken by a transfer engine to the Cypress Yards, and put in trains.

Q. Where does that engine take them to be put into the train? East or west of the Kaw River?

A. West of the Kaw River.

Q. And that train is made up for the north, west of the Kaw River?

A. Yes sir.

Mr. HAGERMAN:

Q. What I understand you to mean by that is, that all trains going north are made up west of the Kaw River?

A. Yes sir.

Mr. LADD:

Q. You have spoken of trains from the east being broken up, and that part of them which is going north and northwest being taken up to these yards west of the river, and there the trains made up: How is it about trains coming from the south and west?

4022 A. That is the same. There they would be in the east bottoms yard, and taken by transfer engine, if the stuff is for the north to the Cypress Yards, and there put into train order.

Q. You say they are taken to the Cypress Yards and put in train order?

A. Yes, sir.

Q. Taken where? West of the Kaw River, or east of the Kaw River?

A. I thought that was decided by this gentleman (indicating Mr. Hagerman) as being west of the Kaw River.

Q. When you speak of the Cypress Yards, do you mean to be understood as meaning west of the Kaw River?

A. Yes, sir. I think the gentleman asked that, to have it a little more distinct.

Q. Now, are those Cypress Yards—and I mean by that the yards west of the Kaw or Kansas River—in the same general condition as they were before the flood of 1903?

A. There may be some slight changes. There have been extensions of tracks for the new yard, that is extended further north.

Q. The flood did great damage to those yards, didn't it?

A. Yes, sir.

Q. They were all under water?

A. Yes, sir.

Q. And they had to be almost rebuilt, or a very great amount of repairs made on them?

A. Yes, sir.

4023 Q. When that was done, what changes were made, in a general way? They have the same number of tracks in there that they had before?

A. I think not. I couldn't answer that question.

Q. Do you think there are as many.

A. I hardly think there are as many, although the trackage room may be as great; the tracks were extended.

Q. Was there an extension of tracks?

A. Yes, sir.

Q. In what direction?

A. North.

Q. So the tracks in what we call the "Cypress Yards" run farther north than they did before the flood?

A. Yes, sir.

Q. Although you think there may not be as many of them: is that correct?

A. That is my impression.

Q. There is a packing-house up there called the Nelson-Morris Packing-House?

A. Yes, sir.

Q. It is a very large establishment?

A. Yes, sir.

Q. That is one of the more recent ones, isn't it?

A. Yes, sir, I think that is about the last one that was put in there.

Q. Is that in the State of Kansas?

A. Yes, sir, west of the Kaw River.

Q. Could you point out, approximately, where that is, on that map?

4024 A. Yes, sir. About where this pencil mark is. It is about in here, with tracks on both sides. (Witness indicates on map marked Exhibit 1.)

Q. Which side of the main track of the Missouri Pacific, running north, does the Nelson-Morris Packing-house occupy, as you go up, on the left or the right hand side?

A. It lies between the Kaw River and the right-hand side of the main line. That is what we call the main line, although the passenger main line runs around, and does not interfere with the yards at all. But it would be in the net-work of tracks running slightly to the north and south.

Q. Is it in immediate contiguity to these yards that lie west of the river?

A. Yes, sir, the connections run through those yards there. The track connections are the same.

Q. What company has tracks into the yards of the Nelson-Morris plant?

A. The Missouri Pacific.

Q. How is it about the shipments from the Nelson-Morris plant over the Missouri Pacific Railway: where are the trains made up that carry those shipments of dressed meat, or packing-house products of various kinds?

A. The entire service is done by the Missouri Pacific.

Q. Where are the trains made up?

A. The service is done in the Cypress Yards.

Q. West of the river?

A. Yes, sir.

Q. Is the Nelson-Morris Company one of the large packing industries there?

4025 A. Yes, sir.

Q. When passenger cars of the Missouri Pacific come into Kansas City, and are left there to be cleaned, or inspected, or subjected to minor repairs, where are they placed while that is going on, and while they are waiting to be put into that train or another train—in what yard?

A. They are mostly stored in the Cypress Yards.

Q. From whatever direction they may come?

A. Yes, sir.

Q. And this work of cleaning, repairing and getting them in shape to go on another trip, is done up there in those yards: is that right?

A. Yes, sir.

Q. I want to inquire now into the length of those tracks in those yards: How many freight cars would those tracks accommodate, would you suppose?

A. They are different lengths. Some accommodate eight cars, some one hundred, some one hundred and twenty-five, and some maybe only ten. I could not get accurately the length of the storage tracks.

Q. If any one goes up there and looks at it, do you see a small or a large number of freight cars standing there?

A. You usually find a crowded condition of the yards, the tracks full; and then again they may be full now, and in ten minutes from now they may be empty. You could not make an estimate on that. The blue prints of the company would show the capacity of each of those tracks.

4026 Mr. HAGERMAN:

Q. You say usually they are crowded? And then you say that sometimes they are crowded and sometimes empty?

A. Yes, sir. Suppose you break up a train of sixty to sixty-five cars, they stand there for an hour, and then the switch engine gets hold of it and breaks it up. Now it would be crowded, and then, if you would come back in an hour, it would be empty.

Mr. LADD:

Q. But anybody looking over the Cypress Yards would see a large number or a small number of cars?

A. It would be the same as if you would step down here to your Union Depot here, you would see a great number of cars there.

Q. And that same particular track might happen to be empty at that moment?

A. Yes, sir.

Q. Do you know where it is that passenger trains which start from Kansas City, going in any direction—that is, that do not come from another direction to go through Kansas City—are made up?

A. Trains originating in Kansas City are made up in the Cypress Yards, as you call them.

Q. Passenger trains?

A. Yes, sir.

Q. What is there over there in the shape of accommodations for engines? Is there a round-house there?

A. Yes, sir, there is a round-house there.

4027 Q. Do you know how many engines that would accommodate?

A. No, sir, I do not.

Q. It is a fair sized round-house, is it?

A. Yes, sir, fair-sized. Usually, at most any point, you will find engines standing outside of the round-house, as well as inside.

The MASTER:

Q. That round-house is in the Cypress Yards, west of the Kaw River?

A. Yes, sir.

Mr. LADD:

Q. What is there, if anything, in the shape of what are called, "Repair tracks", over there? Are there any?

A. Yes, sir, a number of repair tracks in the Cypress Yards. I don't know how many.

Q. Those are tracks on which cars stand while undergoing repairs?

A. Yes, sir, minor repairs.

Q. Is there a shop or shops there, with facilities for making those repairs?

A. No, sir, there is no heavy work, such as rebuilding.

Q. I don't mean shops big enough to take a car in and build it over again, but are tools kept there?

A. Yes, sir.

Q. There are no extensive rebuilding shops there?

A. Oh, no sir.

Q. If a car was very seriously damaged, it would not be sent to the Cypress Yards for repairs?

A. No, sir, it would go either to Sedalia, or some place where they had large shops, for repairs.

4028 Q. It is for minor repairs, such as might be made while the car is standing on the track?

A. Yes sir, to replace a clamp or a bolt, or replacing a wheel, or some small repairs like that.

Q. I wish you would look at page 4 of this Exhibit 34, which is the time table of the Kansas City terminals; look at Train 73, headed "Kansas City & St. Joe Red Ball": That is a westbound train, and runs from St. Louis, doesn't it?

A. Yes sir.

Q. When that train gets to Kansas City from St. Louis, what is done with it?

A. The caboose and the road engine are cut off, and that train is taken into the Cypress Yards——

Q. The caboose and road engine are cut off where?

A. In the east yards.
Q. Down in the city?
A. Down at Southwest Junction; then the train is picked up by a transfer engine and taken to Cypress Yards and broken up.
Q. All the rest of it is broken up?
A. Yes sir.
Q. After it is broken up, what is done with it?
A. It is put into various trains, for St. Joe, Leavenworth, and so on; put in station order.
Q. Such freight as is going west or north of Kansas City is arranged in its proper place, in its proper train, up their in the Cypress Yards, and is sent out from those yards: is that right?
A. Yes sir.
4029 Q. Suppose in that train there was a car destined for the Grand Avenue Station in Kansas City, Mo., down on the river front of the city, what would be done with that car?
A. That would be thrown out in the east yards.
Q. And then what would be done with it?
A. The transfer engine, or the house engine, would place it in its proper place.
Q. At the Grand Avenue Station?
A. Yes sir.
Q. If destined for Grand Avenue, that car would not be hauled down to the Cypress Yards, and then hauled back to Grand Avenue?
A. No sir, I should think that would be very rare in the case of No. 73.
Q. I want to ask you about the stock trains of the Missouri Pacific Railway, cars destined for the stock yards: take a train, we will say first a train of stock coming from the north or northwest, destined for the Kansas City stockyards: what is done with that?
A. The road engine is cut off at the Cypress Yards, and another engine takes it and shoves it into the stockyards tracks.
Q. The Missouri Pacific stockyards tracks?
A. Yes sir.
Q. Where are they?
A. There is where the contention was a few moments ago with this gentleman, (indicating Mr. Hagerman), about which was Cypress Yards and which was State line yards.

4030 Mr. HAGERMAN: There was no contention with me. You said the Cypress Yards extended from the State line west.
A. They are parallel with the Kaw River, but east of the Kaw River and west of the state line.

Mr. LADD:

Q. What?
A. These loading and unloading tracks.
Q. After it gets into the yards west of the river, the Cypress Yards proper, the caboose and engine are taken off?
A. Yes sir.
Q. And then another engine takes that train of stock?
A. Yes sir, a regular yard service engine.

Q. Does it actually cross the bridge over the Kaw River?

A. The tracks go out this way (indicating), and the train this way (indicating), and then there is a line of tracks and chutes in here (indicating), and another line of tracks alongside of those, and chutes; and then there is a long track running clear around, this Kansas City Suburban Belt connection and the packing-houses. They are unloaded on either side. And then along here (indicating) is the scales. They run over the scales to be weighed.

Q. An engine from the Cypress yards takes that train, after the caboose and engine have been dropped, and takes it in an easterly direction across the Kaw River bridge: is that right?

A. Yes sir, that is right.

Q. The cars in that train are weighed, are they?

A. Weighed? Yes.

Q. Where is the weighing scale?

4031 A. The scales are west of the State line.

Q. How does that train stand while it is being weighed?

A. North and south, almost.

Q. While it is being weighed?

A. Yes, sir. They come around a curve to the scale.

Mr. HAGERMAN:

Q. That is a train coming across the bridge?

A. Yes, sir.

Q. The bridge runs east and west?

A. Yes, sir.

Q. How do they get the trains standing north and south?

A. They come around a kind of a "Y."

Mr. LADD:

Q. Is that for unloading?

A. Yes, sir.

Q. Is the train weighed before it turns around to unload?

A. It turns around and backs over the scales.

Q. It pulls down east toward the State line?

A. Yes, sir.

Q. And after it is pulled down, it backs over the scales?

A. Yes, sir, and it is weighed as they go in, automatically.

Q. The train does not stop while weighing those cars?

A. No, sir. They move along slowly, and register the weight automatically.

Q. The train moves slowly over these automatic scales, and each car is weighed as it passes over, by some device?

A. Yes, sir.

Q. Is there a man in that scale house?

4032 A. Yes, sir, there is a man in the house. The tape passes along, and as a car passes over the scale he glances up and takes the initials and number of the car. The tape passes and he looks up again and takes the number and initials of the car, and keeps on so doing.

Q. You speak about the "tape": is that like the tape in a ticker?

A. Yes, sir.

Q. It runs along and impressions are made upon it automatically, as the train moves?
A. Yes, sir.
Q. And a man stands there and takes a record as the tape passes?

Mr. HAGERMAN: I object to that as leading, and I do it because manifestly this witness does not know a thing about it.
Mr. LADD: Does not know a thing about it?
Mr. HAGERMAN: Yes. That is, about the weighing of those cars. Let him tell it in his own way. Ordinarily, I would not object to your leading a witness, but I want him to tell what he knows about it.

Mr. LADD:

Q. Have you seen them weighing there?
A. Yes, sir.
Q. How many times?
A. Do you mean recently?
Q. Recently, or any other time?
Mr. HAGERMAN: As they are being weighed to-day.
A. I saw, I guess, fifty or sixty cars weighed last Monday and Tuesday. And this character of scales I have been familiar with for some time. But the Missouri Pacific did not have them
4033 in my previous service.
Mr. HAGERMAN: That is what I was getting at; that what they do with the scales now that they didn't do before, you know nothing about?

Mr. LADD:

Q. Is that the way they do it now, this week?
A. Yes, sir.

Mr. HAGERMAN: I object to that, because that goes right back to the leading question Mr. Ladd put to him. Let him tell it himself.
A. Cut out the scale business, and say, weighed it after unloading. They had to unload it.
Mr. HAGERMAN: I haven't any objection to your telling it any way, so you tell it yourself.

Mr. LADD:

Q. Go on and state how those cars are weighed?
A. They are taken by an engine, backed in on a track to the stock chute, and spouted. That ends the connection of the Missouri Pacific with them until they are unloaded. The stockyards employés unload them and take them out of the chutes.
Q. Where are they unloaded?
A. In Kansas.
Q. In the State of Kansas?
A. In the State of Kansas.
Q. What is there, if anything, about a subway there?
A. There are two subways, or runways, under the tracks into the stockyards.
Q. Is all of the stock coming to the Kansas City stockyards on

the Missouri Pacific road from the north—is any part of it unloaded in the State of Missouri for the stockyards?

4034 A. None whatever that I know of.

Q. These subways are in Kansas are they, west of the State line?

A. Yes, sir.

Q. Now, I want you to tell about this weighing, in your own way: is that done before the unloading?

A. Yes, sir.

Q. Just tell about that in your own way. When you get that transfer engine on to that train of stock, and it is hauled across the bridge——

A. Speaking of backing the train in over the track, on that track is an automatic scale. The weigh-master weighs the stock as the train goes over it. That is as near as I can put it.

Q. That is after the train has been hauled across the bridge?

A. Yes, sir.

Q. It is backed up?

A. Yes, sir.

Q. And as it is backed up this automatic weighing goes on?

A. Yes, sir.

Q. Have you seen that done?

A. Yes, sir.

Mr. HAGERMAN:

Q. With the train backing?

A. Pushing it into the chutes.

Q. When did you ever see it done with the train backing?

Mr. LADD: I object to the witness being cross-examined now.

4035 Mr. HAGERMAN: I am pointing out that he cannot tell that without Mr. Ladd telling him.

The MASTER: The objection is sustained.

Mr. LADD:

Q. Where is the engine in passing over those scales? Is the engine pushing or pulling?

A. Sometimes it is toward the east, and sometimes toward the west. If the front end of the engine is towards the train it is pushing; and if the tank is toward the engine it is pulling. A man would not stand and give a back-up signal if the head-end of the engine was on the train.

Q. If the head-end of the engine is at the train, and the nose facing toward the train, and pushing the train, do you call that pulling?

A. No, sir, I call that pushing. That is merely a term that is used, either backing-up, or heading in. Of course, a person not familiar with the railroad service would not understand that. But take a man with a lantern, and give him signals, and it would make a good deal of difference. He might run over some persons.

Q. There seems to be a misunderstanding between some of us——

The MASTER:

Q. When you speak of backward and forward, you have reference to the engine, and not the cars which it is handling. If the engine is backward, you call that backing, and if it is going forward, in the direction of its pilot, it is pushing?

A. Yes, sir. We were speaking of stock from the north, Mr. Ladd. We say this stock was from the east.

4036 Mr. LADD:

Q. I was going to ask you about stock coming into the stockyards from the south, east or west, which comes into Kansas City at the Southwest Junction, at the east terminal: where would that stock go?

Mr. HAGERMAN: That would include all stock that would not come from the north or northwest?

Mr. LADD: All the rest of the stock except what you have spoken of, comes in by way of the southwest junction or east terminals?

A. Yes, sir.

Q. I want you to tell what is done with stock that comes in by way of the east terminals.

A. East, south and west?

Q. Yes.

A. The engine and caboose are cut off in the East Bottoms yard. The transfer engine takes that stock, with two helpers, stock monkeys they call them, and that is taken to the Cypress Yards by this transfer engine, and it is headed north. It is cut off, and a switch engine takes it and drags it back east, and it backs in on the east leg of the "Y." There is where we were confused before. You see one leg is that way (indicating), and another is this way (indicating).

Q. It drags it back east: does it take it east of the bridge, over the Kaw River?

A. It goes west of the bridge. Then they get hold of it and shove it in over the east leg of the "Y" over the unloading scales again. Now that is all west of the State line.

4037 Q. That train of stock from the east, south or west, is taken by an engine from the East Bottoms yard, up into the Cypress Yards, west of the river, and there it drops it?

A. Not necessarily west of the river, but west of the State line.

Q. West of the State line?

A. Yes, sir.

Q. What is done with it then, does another engine take it?

A. Yes, sir, the switch engine, the yard engine, takes it and places it to the chutes.

Q. Where is that switch engine kept when not in service?

A. It is usually in service. Its duties are in the west or Cypress Yards. That is where their duties are.

Q. And the same thing takes place with reference to that train of stock from the west, east or south, that happens to the car from the north, in regard to unloading?

A. The same thing exactly.

Q. Where is it unloaded?

A. West of the State line. There are no unloading tracks east of the State line.

Q. Suppose the Missouri Pacific Railway has to take some stock from the State Line Yards, either north, northwest, east or south, feeders, or fat cattle, where is that loaded on to their trains?

A. In Kansas, under the same conditions it is unloaded.

Q. How does it get to these pens, through these subways you speak of?

4038 A. Into the stock-pens? It is driven through those subways into their stock-pens, and then loaded into their cars.

Q. That is in the case of the Missouri Pacific?

A. Yes, sir.

Q. Where are those stock trains for outgoing trains on the Missouri Pacific made up?

A. Those for the east, south and west——

Q. I mean, going out from the stockyards?

A. Those for points east, south and west, are made up in the East Bottoms Yards. The stock after being loaded, is taken by the transfer engine to the East Bottoms Yard. If it is going north it is taken by the Cypress or West End engines north to the Cypress Yards and there made up.

Q. Where, in the first place, do they get the cars to load them up? Where are those cars kept, to be taken to the loading pens?

A. They have regular tracks, and keep their surplus cars on them, and clean them there.

Q. Where is the engine kept that takes those empty cars from the Cypress Yards up to the loading chutes?

A. You mean while at work?

Q. Yes.

A. There in Cypress or West Yards.

Q. After those cars are loaded up for transportation out of town, what is done with them? Do they go back to the Cypress Yards?

A. After they are loaded?

Q. After they are loaded with stock to be taken out of town?

4039 A. Yes, sir. There is not anything loaded—that is, the output of the stockyards, but what is west of the State line. But, as I explained before, stock destined for the north would go over to the Cypress Yards, and be put in trains, and that for the east, west and south would come to the east bottoms and be put in trains.

Q. After stock for the east, west and south is once loaded from the pens into the cars, those cars do not go back to the Cypress Yards, but go right on down to the East yards?

A. Yes, sir: It would be unnecessary work to take them back to the Cypress Yards and have another engine come after them. That would not be good work at all.

Q. There is a packing-house there which used to be called "The Fowler Packing-house," that used to be run by a man named Fowler?

A. Yes, sir.

Q. Is that house in operation now?

A. Yes, sir, but I don't know who operates it.
Q. Does it have yards of its own?
A. They are independent of the stockyards; yes, sir.
Q. Where is that house situated? Could you point it out on the map?
A. That is north of the Missouri Pacific stock-pens. You might say it is up on the river bank or on the Kansas City Suburban Belt track.

Mr. HAGERMAN:

Q. And on the Kansas City Northwestern?
A. Yes, sir.
4040 Q. That is not on the Missouri Pacific proper?
A. It is on the Missouri Pacific stock loading track.

Mr. LADD:

Q. How does that stock get into the Fowler yards?
A. Arriving on the Missouri Pacific?
Q. Yes.
A. It is placed in the same way we place the stock yards, only it goes further north. They have an independent track.
Q. Has or has not the Missouri Pacific a track running up to the Fowler yards?
A. Yes sir, they have a track, and that also connects with the Kansas City Suburban track. They are used interchangeably.
Q. And that is also in Kansas?
A. Yes sir, all in Kansas.
Q. Suppose there are shipments out of fresh meats, or other packing-house products, over the Missouri Pacific, from the Fowler House, how do those shipments get away from the packing-house, over what track?
A. If consigned to the Missouri Pacific, I think it would go over that connection, but to the best of my understanding in regard to the Fowler plant—you see it has not been operating very extensively—the Frisco handles their meat business in connection with Armour's.

Mr. HAGERMAN:

Q. Did you ever know of a pound, or a car of it, to your own knowledge, of Fowler's, that did not go out by the Frisco road?
A. Not previous——
4041 Q. Ever in your life?
A. No, sir, that connection was not made at that time that I was familiar with it.

Mr. LADD: I object to cross-examination at this time. The witness did not say he was familiar with it. He said he didn't know.
Mr. HAGERMAN: Every one who lives in Kansas City ought to know it.
Mr. LADD: I live in Kansas City, and I didn't know it.
A. The Frisco does that work for both plants, except the delivering of stock.

Mr. HAGERMAN: I know we are trying every way we can to get some other road in there, so the Frisco shall not have a monopoly.

The MASTER: If every one knew it, the tryer of the fact does not know it. I do not know it.

Mr. LADD:

Q. Did any of these stock-trains that come from the north or the northwest on the Missouri Pacific—does any part of them at any time, in their progress, and if so what part of them and under what circumstances, pass over the State line into Missouri?

A. I think not. It would have to be an exceptionally long train, and then they would simply pass over far enough to get the scale connection. It would not be a stoppage, but just pass down and then push back over it.

Q. Go over far enough to get to a point where the engine could back over the scale?

A. Yes, sir.

4042 The MASTER:

Q. How far west of the state line is the scale, if you know?

A. I do not know.

Q. Can you approximate it?

A. Yes, sir, I should think it is about sixteen hundred feet from the state line to the Kaw. This is simply guess work, because I was not prepared for that. But I should judge it was over eight hundred feet.

Q. From the scale to the state line?

A. Yes, sir.

Q. Is it in a straight direction west? A train which stands across the state line, if it does, and backs so as to get on the scale, does it go west or go around the curve?

A. There is a slight curve, and the scale is just at the point of the curve.

Q. Turning to the north?

A. Yes, sir.

Q. But you cannot state exactly how far that scale is from the state line?

A. No, sir.

Q. Is the scale on this curve?

A. About the point of the curve.

Q. What do you mean by the "point of the curve"?

A. Before the curve commences. Just before the curve commences.

Q. I don't suppose I understand it, but see whether I do or not: (Counsel here makes sketch.) The train is backing west, and this way is north (indicating)?

A. Yes, sir.

4043 Q. Where is the scale?

A. The scale would be on the straight track. You could not put a scale on a curved track.

Q. Is it before you get to the curve or after you get around it?

A. Before you get to it. I should judge the scales would be inaccurate if put on the curve.

The MASTER:

Q. Do you know exactly where the state line is, where this scale track crosses it?
A. There are markers, or posts, there.
Q. To indicate the state line?
A. Yes sir, to indicate the state line.

Mr. HAGERMAN:

Q. How did you say you know where the state line is?
A. By markers or posts. They are at several different points in the yards.

Mr. LADD:

Q. About how many engines and crews are kept in the Cypress Yards for doing the work of the Cypress Yards, if you know?
A. In operation?
Q. West of the river?
A. You see, an engine would be working west of the river now, and the yardmaster would give me an order to cross the river and pick up a bunch of cars. You cannot make that distinction. There were four engines doing that work there Tuesday and Wednesday, and there were two transfer engines back and forth between the east and the west Cypress Yards.
Q. Four engines up west there?
4044 A. Yes, sir.
Q. With their crews?
A. Yes, sir.
Q. Are there switchmen, yardmen, etc., over in those yards?
A. Yes, sir; regular crews with each engine.
Q. And signal men?
A. Yes, sir.
Q. And are there telegraph or telephone stations over there?
A. Yes, sir, all facilities for keeping in touch with the yardmaster at different points.
Q. I am asking particularly now about that part of the yards west of the State line.
A. Yes, sir.
Q. You so understand my question?
A. Yes, sir.
Q. Are these also west of the river?
A. They do work west of the river, and west of the state line also.
Q. You said there were two transfer engines working back and forth between the lines up west and the east terminals?
A. That is the best of my recollection; yes, sir.
Q. Hauling these cars back and forth?
A. Yes, sir.
Q. Did you go down to the east yards during this last week, you and Mr. Woods?

A. Yes, sir, both of them.

4045 Q. How many engines are there down there in the day time?

A. I believe there were six or seven working. There were twenty-one engines, night and day, assigned to the work. They were divided up that way, to the best of my recollection, just as I tell you.

Q. Twenty-one, night and day?

A. Yes, sir.

Q. You say there were four engines up west, and seven down east?

A. Yes, sir.

Q. And double that number for night and day. You observed the operations only in the day time, I suppose. Is that right?

A. Yes, sir.

Q. Are any passenger cars kept at the east terminals?

A. No, sir, none stored there.

Q. Are any passenger trains going out of Kansas City made up at the east terminals?

A. Right there, there is a little question. You could not call it "making up." There is a change made at the Southwest Junction; a sleeper and a chair-car taken from the eastbound train, for the Colorado points.

Q. Taken on there?

A. Taken off the main line train by the switch engine, and placed on the Colorado train. That change is made in the East Bottoms yard.

Q. A train coming from St. Louis with a Colorado car would leave that Colorado car there?

4046 A. Yes sir, the switch engine would handle that there.

Q. But the rest of the train would go on to Kansas City and go up to the Cypress Yards and be broken up there?

A. Yes sir.

Q. Take the case of a passenger train running from St. Louis up to Saint Joe—they are the same?

A. Yes sir, St. Joe and Omaha.

Q. Do they change engines or not at Kansas City?

A. They change engines at the state line.

Q. Where is that, east or west of the line?

A. Well, most of that work is done west of the line.

Q. Where is that engine kept that takes the train on up to Atchison?

A. The passenger engines are kept in the Cypress Yards.

Q. Where will the engine which has brought that train from Sedalia, your last division point, and leaves it there, be put when it leaves that train, and another is substituted for it?

A. It will go to the Cypress Yards, and get sand, water, coal, and have the fire cleaned, and be ready for a return trip in rotation.

Q. How long have you been on the police force?

A. Four years.

Q. While you have been in the service of the Police Department

at Kansas City, during the last four years, during any part of that time have you been stationed up or about those State Line Yards?

A. Well, I have done work in citizens' clothes up through
4047 there, and on my days off I would go there visiting my old railroad friends. There was a contemplated change of yardmasters there a couple of times, and I went down and looked the situation over, with the intention of making application. I had been previously offered that position by Mr. Dalby, on two or three different occasions. The result is that I kept in touch with it, not anticipating anything like this coming up.

Q. But occasionally, during the last four years, during your service on the police force, you have been up there occasionally as an officer, and occasionally as a visitor to your old friends?

A. Yes, sir; it is natural for a man to visit his old associates.

Cross-examination.

By Mr. HAGERMAN:

Q. Are you some special officer, above the rest of them?

A. Simply a member of the Metropolitan Force.

Q. What you call a patrolman?

A. Yes, sir.

Q. What salary do you get?

A. We are paid eighty dollars for twenty-eight days' work, with two days off each month.

Q. You were working on the Narrow Gauge Road from 1874 to 1880 or 1881: where did that run?

A. That ran from Kansas City to Lexington.

Q. And it was then converted into a broad gauge road?

A. Yes, sir.

Q. What position did you occupy on that Narrow Gauge line?

4048 A. I ran an engine on that line before the Gould people absorbed it, part of the time passenger.

Q. Freight and passenger combined?

A. Both Freight and passenger.

Q. What salary did you get?

A. Three dollars a day we were getting.

Q. After the consolidation, you ran a freight train between Sedalia and Kansas City for fifteen years?

A. Yes, sir.

Q. What salary did you get there?

A. That depended.

Q. On the average of what?

A. About ninety to one hundred and ten dollars, it would run.

Q. How long were you yardmaster at Lexington?

A. From 1885 to 1887. I was there during the 1886 strike there.

Q. Lexington is a small place, about fifty thousand inhabitants?

A. Yes, sir, but they have about fourteen miles of yards there.

Q. How much salary did you get at Lexington?

A. Ninety dollars a month.

Q. At Independence how long were you yardmaster?

A. I was taken off the road and put in charge there to systematize that yard.

Q. How long were you at Independence?

A. I don't remember exactly.

4049 Q. When was it?

A. I was in Independence before I went to Lexington, along in 1881 and 1882, when they abandoned the ten miles of road between Kansas City and Independence; they put in a system of third rail there.

Q. My question is, How long were you there?

A. Well, it would be safe to say several months or a year.

Q. What salary did you get there?

A. Ninety dollars a month.

Q. Then you were yardmaster down at the Armour Packing Company?

A. Yes sir.

Q. The Armour Packing Company owns its refrigerator cars?

A. Yes, sir.

Q. And they had tracks running through their packing-house plant?

A. Yes sir.

Q. The question of making up trains, or setting out cars, is something that was done by the Frisco road?

A. The Armour Company had repair tracks where they made all their repairs, rebuilt cars, and they had paint shops, etc.

Q. Let us see about building cars there.

A. They built them outright.

Q. When you were there?

A. Yes sir.

4050 Q. What years were those?

A. 1897, 1898, 1899, three years, within a few months, after my first term of service, when I was discharged from the Missouri Pacific.

Q. Wasn't it the Kansas City Car & Foundry Company that did that work?

A. They furnished the castings, yes.

Q. And the Armour Company built the frame-work of the cars?

A. Built them outright.

Q. And as far as doing any moving of the trains, that was done by the Frisco road?

A. Under my direction.

Q. How do you mean?

A. They furnished the power, and I did the other work.

Q. You looked after your own cars?

A. Yes sir.

Q. But the Frisco had a yardmaster running the thing?

A. Running in conjunction with me, and we acted as a check on each other.

Q. Although the state line runs through the Armour plant, the stuff is taken in and out of Armour's, these meat trains which you

supervised, up toward the East yard tracks, and run practically around to the Union Station at Santa Fe Street?

A. Do you want me to go back over that?

Q. No sir. I want to get an idea of your services and what your salary was.

4051 A. I was going to say the Missouri Pacific had a coal plant which furnished them all their coal on the west side. My position was to check with the yardmaster of the Frisco.

Q. How much salary did you get for that?

A. Ninety dollars.

Q. Then, at the time you were working for the Missouri Pacific, they did not have these East Bottoms yards?

A. No, sir, they had long store tracks running from the southwest junction—They were not yards, you understand me. But we would be going east of the state line, and we would be blocked, and we would get an order to set our train up on the storage tracks, and we would do so, and run in with our engine and caboose light.

Q. Since you left the company the East Bottoms Yards have developed into a situation where they are ten or twelve times as big as when you worked out there?

A. Yes, sir.

Q. And they have a round-house there?

A. Yes, sir.

Q. And repair shops?

A. Yes, sir.

Q. They have everything that is used in yards?

A. Yes, sir.

Q. It is a pretty extensive thing out there in the East Bottoms Yards now?

A. Yes, sir.

Q. When you made the inspection for this case, did you go out to those yards?

4052 A. Yes, sir.

Q. Have you, since the enlargement of the East Bottoms yards, had occasion to be out there, looking over that ground, at any time prior to this ?

A. Yes, sir.

Q. When?

A. At different times, for box car thieves, and brass thieves, and in one murder case.

Q. In doing your police duty, you would have occasion to be out there?

A. Yes, sir.

Q. Not doing anything for the railroads, or looking up any problems?

A. No, sir, except the problem of those two humps they put in there. I was rather stuck on them.

Q. When you get down to the Grand Avenue yards, that is something of an institution in itself, isn't it?

A. Yes, sir, but that has been in existence a long time.

Q. But I mean, it is a pretty considerable yard?

A. Yes, sir, a good sized yard.

Q. And when you get down to what you call the Union Station, that is where the passenger trains stop and go out?

A. Yes, sir.

Q. Passing that, you get down to what they call the State Line station or depot?

A. No, sir.

Q. Warehouse—what do you call that building east of the State line?

4053 A. The Hickory Street freight house.

Q. That is on the Missouri side?

A. Yes sir, part of it. One end of it runs into Kansas.

Q. How much does the Kansas line cross?

A. I wouldn't say. She has trackage connections into Kansas and Missouri.

Q. Of course, I understand the whole system has trackage connection. But does the state line touch the building, or is the building east of the state line?

A. The larger portion of it is east of the state line.

Q. Is any portion of the building itself west of the state line?

A. Not the completed portion.

Q. They are building something there now?

A. Yes sir.

Q. Let us talk about the building that is there.

A. That is what I am trying to tell you.

Q. The building used up to the present time, is there any portion of that west of the state line?

A. No sir.

Q. The fact is that the state line runs practically through the heart of whatever you may call them, the yards there, doesn't it?

A. You mean the yards in the west portion?

Q. When you get down to the Hickory Street freight house, which I call the State Line Station, there are a great number of tracks, probably fifty or sixty tracks, constituting a yard?

4054 A. East of the state line?

Q. No sir. Down in the vicinity of the state line.

A. There is not now; there was before the flood.

Q. How many tracks, paralleling each other?

A. I should judge, ten.

Q. Not more than ten?

A. No sir, not outside of their house tracks.

Q. Running from the bridge up to the Hickory Street station?

A. I will get at that better by going back a little further. What we call the "Hill Yard," or "State Line Yard," had some twenty-five or twenty-six tracks then. It has six now.

Q. How many tracks in the widest part, between the Union Station——

A. Oh, the Union Station doesn't touch it.

Q. When you get to the west end of the Union Station, between that and the Kaw River, what is your widest part?

A. The west end of the Union Station does not touch those tracks.

Q. They start from what point?

A. Say, Hickory Street.

Q. Well, start from Hickory Street, in Kansas City, Mo., and to the Kaw River—what is the greatest number of tracks, in width, at any one place?

A. There are six or eight tracks in the old Hill Yard, and then whatever house tracks you have there; I think five would cover your house tracks.

4055 Q. That would make eleven tracks, you think, at the widest place?

A. Yes sir.

Q. Does the state line cut those in two?

A. The state line passes right through them.

Q. So it is practically one yard that is cut in two by the state line?

A. Certainly, by that imaginary line.

Q. So far as doing your road service is concerned, it is an imaginary line, isn't it?

A. Yes sir.

Q. In doing the switching, with a switch engine, when they work about there, they cross and recross the state line about as often as they move, don't they?

A. No sir.

Q. When you get them east of the bridge?

A. Yes sir. But the greater portion of that work is west of the bridge.

Q. Let us stay east of the bridge a little while. Whenever you are east of the bridge and have a train moving there, it is almost certain as the movement, that you are going to cross the state line, isn't it, as a general rule?

A. Yes sir.

Q. Whether coming from the east or the west, that is true, isn't it?

A. Yes sir.

Q. And about how much space do you think there is between the state line and the bridge?

A. I should judge about sixteen hundred feet.

4056 Q. If that is the way those tracks are cut by this imaginary state line, and every movement of every train that is east of that Kaw River means the crossing of the state line, why do you draw any line in calling what you call "The Cypress Yards," by making it extend your state line on across the Kaw River west?

A. I did not make any distinction of that kind.

Q. Where is the east border of what you call the "Cypress Yards"?

A. My east border, if I was running the yard, would be at the state line, simply for this reason; the yardmaster's office is in Missouri, and I would tell this gentleman and take an engine and go to the State Line Yards or to the Cypress Yards, to Track No. 5 or No. 10 and bring me so many cars——

Q. I am not asking you what you would do. But when you speak of the Cypress Yards, I am trying to get at what you mean

by your testimony; when you use the words "Cypress Yards," where at the east end of the yards do you start, by those words?

A. West of the state line.

Q. What did you call "east of the state line," in your testimony?

A. The State line. There must be a dividing line, the same as Hickory Street. That would be all of it in Missouri; suppose that was the dividing line.

Q. I am not supposing anything, but in your testimony you speak of the "Cypress Yards:" I know now that you include everything in that, everything west of the state line: do you include anything east of the state line when you say "Cypress Yards"?

4057 A. No, sir; if I were ordering an engine to the Cypress Yards, I would not include anything east of the state line.

Q. But you would include everything west of the state line?

A. Yes, sir.

Q. What do you call it east of the state line?

A. That is Missouri yards, or east yards.

Q. That is something different from the East Bottoms yards?

A. Yes, sir, the East Bottoms Yard is a new affair entirely. They originated since the floods in 1903.

Q. Then in your testimony, you divide the yards in this way: the East Bottoms Yards, those include the ones which have grown up since 1903?

A. Yes, sir.

Q. Then what you call the East Missouri Yards?

A. Yes, sir.

Q. Which lie between Hickory Street and the state line?

A. Yes, sir, we would call them the Hickory Street yards.

Q. I want to know how they are designated? That is, what they are called in the railroad business there?

A. That is my understanding.

Q. And when you get to the state line, your understanding is what?

A. Cypress Yards.

Q. That is not your opinion, but it is your understanding of what, in railroad circles, is called the Cypress Yards?

A. I have taken that from the yardmaster.

4058 Q. Everything from the state line west is Cypress Yards?

A. Yes, exactly; that is the idea.

Q. In railroad parlance, or in your knowledge of the situation, is there any distinction made in subdividing the Cypress Yards?

A. No sir, I am not familiar enough with it to say that.

Q. When you are working there, and working some of the Cypress Yards, you wouldn't know whether you were going east of the Kaw River or west of the Kaw River: is that your idea?

A. If you would give me the track number I would know.

Q. If they just said "Cypress Yards"?

A. Then I wouldn't go.

Q. This time card you have been talking about uses this expression, indicating that there were water stations, "At East Bot-

toms Round-house:" that is down in this new place built since 1903, is it?

A. Yes sir.

Q. Also is uses the words "State Line:" what does that mean?

A. I would make it out, the state line division between the two states.

Q. In railroad parlance, there is a water station, on page 4, where you testified about these trains; what does that mean?

A. You will find water pipes on both sides of the state line, for the convenience of the switch engines.

4059 Q. On the state line, between the station and the Kaw River, there are water stations?

A. Yes sir.

Q. And between Hickory Street and the state line?

A. Yes sir. The closer the water stations, the better service you get out of your engines.

Q. I want to know what "State Line" means on this time-card. There doesn't seem to be any designation—yes, here is a bulletin board on Hickory Street; what does that mean?

A. A bulletin board for train men and yard men.

Q. Where would that be located?

A. Located in the yardmaster's office.

Q. Where is that?

A. Hickory Street.

Q. "And East Yards:" what does that mean?

A. That would mean at the yardmaster's office, in the East Bottoms Yards.

Q. "East Bottoms round-house:" what does that mean?

A. The same thing.

Q. And "Cypress Round-house"?

A. That is in the Cypress Yards.

Q. When you get over between the state line and the Kaw River bridge, at what you call the loading and unloading chutes for the stockyards, on which side of the Missouri Pacific tracks are those placed, north or south of them?

A. North.

Q. And then how does the stock get to and from the stock yards itself?

4060 A. Through run-ways, or you might call them covered chutes.

Q. Running under the tracks?

A. Yes, sir, under the tracks.

Q. Not running over the tracks?

A. Not in connection with the Missouri Pacific. Armour has overhead chutes.

Q. Where they drive the stock right from the cars into the packing-house?

A. Yes, sir.

Q. When you get to the stockyards, do you know where the state line runs through them?

A. No, sir, I do not. There are markers there.

Q. From your general observation, this imaginary state line goes just about through the heart of the stockyards, does it not?

A. I cannot say about that.

Q. It runs through the pens?

A. Oh, certainly.

Q. The stock that is driven to or from the Missouri Pacific loading chutes—do you know what pens it comes out of, whether from the pens on the Kansas side, or from the pens on the Missouri side? It might come from either?

A. It might. But if it is to be loaded it has to go through those chutes.

Q. But what I am trying to get at is your testimony. The place they put them into the car is over in Kansas, between the state line and the Kaw River?

A. Yes, sir.

4061 Q. But you don't mean to say that the cattle or animals, loaded or unloaded, cannot come from or go to pens on the Missouri side?

A. They can come from Nebraska, Missouri or Illinois, but they come from those stock pens——

Q. I am not talking about anything of that kind, but the pens in the stockyards.

A. Let me tell you, I don't know where they come from in the pens in the stockyards. I didn't have anything to do with that.

Q. I didn't think you meant that, is why I pressed you about it?

A. No, sir, that would be going into the stockyards business, with which I am not familiar.

Mr. KENNISH:

Q. Those stockyards are on the north side of these state line yards?

A. On the west side.

Mr. HAGERMAN:

Q. The loading and unloading chutes are north of the Missouri Pacific tracks?

A. Yes, sir.

Q. And they have subways running south and leading into the stockyards on the south side of the tracks?

A. Yes, sir. Now I don't know whether I ought to say anything about it, but you haven't asked me about quarantine stock.

Q. The United States has a quarantine line which extends across the State of Texas, which cuts it probably catercornered from the northeast down to the southwest, probably cutting off part of Arkansas?

4062 A. Yes sir.

Q. Under the laws of the United States, the quarantine regulations for cattle coming from south of that line are that they must first go into the quarantine yards to be inspected: isn't that right?

A. Yes sir.

Q. The quarantine yards are on the west side of the Kaw River, to keep them separate from the regular yards, to prevent disease spreading?

A. Yes sir.

Q. Where do they load or unload from the quarantine yards?

A. Cars going in over your system are called quarantine cattle.

Q. Where are they loaded?

A. They are hauled by the Missouri Pacific to the Union Pacific.

Q. Where is the Union Pacific?

A. They use the track jointly.

Q. Where do they take them, east or west of the Kaw River?

A. West of the Kaw River, in the Cypress Yards.

Q. What work do they do up in these East Bottoms Yards? Have they any tracks up there on which they set cars?

A. Yes sir.

Q. Do they do any repairing of cars there?

A. They do.

Q. You did not mean by your testimony, that it laid on the west side of the Kaw, that all the work done on the Missouri
4063 Pacific was done over there?

A. I didn't say all.

Q. You didn't mean to say that?

A. I said they maintained a repair track, a roundhouse, and conveniences for getting engines ready, in both yards.

Q. For passenger and freight, in both yards?

A. Not passenger, in the east yards.

Q. The East Yards do not deal with passenger trains at all?

A. No sir.

Q. Does the yard at the state line, which you call the Hickory Street Yard, have anything to do with making up passenger trains there?

A. No sir.

Q. What about changing engines? You said that took place down there?

A. That takes place at the state line. Sometimes the engine is changed east of the state line and sometimes west. The proportions I don't know anything about.

Q. If an engine were coming from the north or from the west, the probabilities are that when the train stops at the Hickory Street station, this imaginary state line would go right through the train some place?

A. I believe it would.

Q. If the train came from the west, that engine would be changed over in Missouri, and if going the other way, would change over in Kansas, so far as the actual location is concerned?

4064 A. It would be just as liable to be one as the other.

Q. Because, in the operation of the road, they do not pay any attention to the state line?

A. That is it. They couldn't draw a chalk mark, and say, Do this, and Do that.

Q. How many cars did you say were in operation there: you said seven up in the East Bottoms Yards?

A. With two transfer engines.

Q. By transfer engines, you mean engines and crews that run from the East Bottoms Yards clear down across the Kaw River, if necessary?

A. Yes, sir.

Q. They transfer from one yard to another, wherever it is necessary to do it?

A. Yes sir.

Q. Those two?

A. Yes sir.

Q. How many, in addition to that, are in the East Bottoms Yards?

A. About seven.

Q. That would make nine?

A. Yes sir.

Q. The seven do the business of, and confine themselves and their work to the East Bottoms Yards?

A. The East Bottoms Yards and Grand Avenue.

Q. Then there are nine?

A. Yes sir.

Q. How many do the work at what you call Hickory Street?

A. Four engines are in service there for the west portion
4065 of the yards.

Q. Four engines, besides these two transfer engines, do all the terminal service that is necessary to be done at what you call Hickory Street Yard?

A. Yes, sir.

Q. That space between the state line and the Kaw River, and that space which you call part of the Cypress Yards, west of the Kaw River; that is right, is it?

A. Yes, sir. You see the conditions are so that sometimes one engine can do as much work in one locality as three could in another.

Q. Oh, I understand that. At one time three of them might all be over at the Hickory Street yard?

A. No, sir. I mean the facilities for handling the cars, the crew, etc.

Q. These four engines might be all at one place, and might not?

A. I would discharge the yardmaster if they were.

Q. I won't argue it with you, but they are just as likely, any one of them, to be in any one place as another?

A. Oh, yes, they are supposed to do the service any place.

Q. Those four engines are supposed to do everything, beginning at Hickory Street, out to what you call the west end of the Cypress Yards?

A. Yes, sir. And you can put it another way: Say the four engines could not do the work in the west yards, you would telegraph the yardmaster that you wanted another engine, and he would
4066 send one from the east yards to help you out.

Q. And vice versa, if they needed one at the east yards, it would be sent from the other yards?

A. Yes, sir.

Q. And if they found that seven were not enough to do the work at Grand Avenue, or the East Bottoms, part of the four would be sent over there?

A. Yes, sir, both ways.

Q. But, in the ordinary course of work, seven engines would do the work at the East Bottoms Yards and Grand Avenue, two would be used for transferring, and four would cover these other yards of which we spoke?

A. Yes, sir. You are getting at the operation of the yards?

Q. Yes, and getting at what your meaning of it is. You have made that thirteen. I understand that there are more than that in actual service. Where did you get your information about the thirteen?

A. There are twenty-one, night and day, you see.

Q. Isn't it twenty-six, night and day?

A. At times I have seen forty-one.

Q. Well, now, let us get at that. Where did you get the thirteen? We have counted thirteen. Do you mean that day?

A. Those days.

Q. That is, on the two days you watched?

A. Yes, sir.

Q. You saw thirteen in service?

A. Yes, sir.

4067 Q. How many at night, or did you watch at night?

A. No sir. But the board in the round-houses shows the time of the engines.

Q. Is that where you got your information, from the board in the round-house?

A. The day work we got from observation.

Q. And you found thirteen?

A. Yes sir.

Q. What did you know about the night?

A. Nothing, only what the yardmaster told me, that he was running that many engines at night.

Q. Whatever you know on the subject is hearsay from the yardmaster?

A. Not everything.

Q. About the night engines?

A. Yes sir.

Q. You have accounted for thirteen day engines and crews, according to your own statement, seven for the East Bottoms yard, four for the west yards, and two for the transfer; that makes thirteen: Do you mean to say there were the same number running at night, or only eight at night?

A. Eight.

Q. What did you mean by telling Mr. Ladd they had ten or eleven for the day, and ten or eleven at night?

A. Did I tell Mr. Ladd that?

Q. That is the way I took it down.

A. I said, twenty-one night and day.

Q. Divided into ten and eleven?
4068 A. No, sir, I didn't make a division of it at all. I explained to him, as I am explaining to you.
Q. Is there such a thing as what they call "work engines" and crews?
A. Not at the present time. There was in building the yards.
Q. Let us just assume there are at the present time, and tell the Court what work engines and crews are?
A. You will have to assume what they are yourself, because I don't know.
Q. You don't know whether they were there or not? Or whether they have them or not?
A. Not at present.
Q. What did they do, when you had anything to do about them?
A. They were hauling dirt back and forth on the Santa Fe connection with the river road, to built up the yards. But that has nothing to do with the operation of the trains.
Q. Don't they have them for the purpose of maintenance, and the keeping up of the yards from time to time?
A. No, sir.
Q. Did they ever have anything in the way of work engines, except in the instance you speak of?
A. I never saw a work train in the yard in my life, except that particular time. They may have work trains on the road.
Q. But not in connection with these terminals?
A. No sir.
4069 Q. Who was it got you to go down and make that inspection?
A. I think Mr. Ladd explained that.
Q. I want you to explain it.
A. I was subpœnaed.
Q. I understand you were subpœnaed to come down here.
A. Yes, sir.
Q. And it was necessary, you couldn't give your testimony in Kansas City, and you had to come all the way to St. Louis?
A. Yes, sir.
Q. But what I am getting at is, what was the occasion, or who was back of it, or how did you come to go down there and spend two days in investigating it?
A. I was requested by Mr. Ladd to do it.
Q. When?
A. Last Monday afternoon.
Q. And who went with you?
A. Mr. Wood.
Q. Another, fellow officer?
A. Yes, sir, and ex-railroad man.
Q. And you spent what time in looking around?
A. Yes, sir.
Q. How much time?
A. Two days.
Q. The whole of the time?

A. Yes, sir.

4070 Q. What time did you go down there on Tuesday morning?

A. Eight o'clock.

Q. How much time did you spend there that day?

A. We got down there about eight o'clock, and we got through along about six, or when it was so dark we couldn't see.

Q. On the first day what did you do?

A. We worked in through the Cypress yards, exclusively, in through the west bottoms.

Q. Where did you start from?

A. We started at the yardmaster's office.

Q. At what point?

A. In the west yard, Hickory Street.

Q. You started at Hickory Street?

A. Yes, sir.

Q. And then you went how far?

A. In through the Cypress yards, in through the stockyards, and observed the operation of the trains, to see if they were about the same as when we used to work there, if the operation was about the same.

Q. Then where did you go after that?

A. We drifted as far as Grand Avenue, and noted if there was any new industry put up.

Q. Didn't you get any further west at the stockyards?

A. Oh, yes.

Q. I was asking you what you did.

A. General observation of the entire place.

4071 Q. Let us get through with one thing at a time: you and your fellow officers started on Hickory Street last Tuesday morning, and it was just a question of observation, to see if they were operating trains about the way you knew they were operated when you were there before: is that right?

A. Yes, sir.

Q. You got as far from Hickory Street as the stockyards?

A. Yes, sir, and from there into the Cypress Yards.

Q. Where did you go from there?

A. Down to the north end, through the different tracks.

Q. The stockyards are over on the east side?

A. Not the stockyards, the Missouri Pacific stock connections.

Q. You found these chutes with the subways different from the way they were when you were working there, didn't you?

A. There is one additional track for loading.

Q. Did they unload through those subways when you were there?

A. Yes, sir, but they had only one line of chutes, and now they have a double line.

Q. I thought that was put in after that time, is the reason I asked you that.

A. No, sir, they were there.

Q. You got as far as the Kaw: did you get across the Kaw?

A. Yes, sir.

Q. Where did you go?
A. In and around the round-house. We just swept the whole territory, you might say.
4072 Q. What time Tuesday did you get through with that?
A. As long as we could observe without the light of a lamp; somewhere about six o'clock.
Q. That first day you didn't do anything around Hickory Street?
A. Oh, yes, we went as far as Grand Avenue.
Q. I want to find out what you did. You started from Hickory Street to go west?
A. Yes, sir, and drifted west and drifted back.
Q. Did you drift back before you got to the Cypress Yards?
A. No, sir.
Q. What time of the day did you get through with your Cypress Yards inspection?
A. I don't know what time. I know we done without eating.
Q. The point I am getting at is, what time you got through the Cypress Yards?
A. I can't tell you exactly.
Q. How far north did you go after the road turns, going east and west?
A. Do you know where the elevated railway is?
Q. I might.
A. You have been in Kansas City?
Q. I have heard of the place—yes.
A. I thought maybe you were familiar with the surroundings there. The elevated runs into Kansas City, Kansas.
Q. How far north, after you turned north?
A. I should think maybe a mile.
4073 Q. Then you drifted back: what time did you start to drift?
A. I don't know that that cuts any figure.
Q. What time did you start back from that inspection?
A. I should judge it was along about two or three o'clock.
Q. That was the end of the job, so far as those yards were concerned: is that right?
A. Yes sir.
Q. Then you came back, and how far did you get that evening, east of Hickory Street, with your inspection?
A. To the Gas Works.
Q. And that was the end of that day?
A. Yes sir.
Q. What time did you start out the next day?

Mr. LADD: Will you object to the witness stating how the Gas Works are with reference to the Grand Avenue Station?

Mr. HAGERMAN: Go on and tell that; it runs about the east end of the Grand Avenue Station, doesn't it?
A. Yes sir, it is east of it.
Q. Now, that was the end of that day's job?
A. Yes sir.
Q. Now let's get out the next morning: what time did you start?

A. About eight o'clock.

Q. Where did you start from that day?

A. Out towards Leeds, and in through the different tracks and yards, and we got through that day, I guess, along about three or three-thirty.

4074 Q. That is all you have done?

A. Yes, sir.

Q. Did you make any report of it, in writing, of any kind?

A. Yes, sir, I made a memorandum for my own benefit, and reported to Mr. Ladd. The memorandum I made was looking over a list of industries which I knew existed there in my time.

Q. And you found them increased, I hope, for the sake of Kansas City?

A. During my time I found one hundred and ninety-three industries, and we had time to get a list of only fifty-nine, but some of those would cover eight or nine industries.

Q. Whereabouts were those?

A. East of the state line.

Q. How many altogether?

A. Fifty-nine on my list.

Q. That is, tracks leading to industries?

A. Yes, sir.

Q. And one industrial track may deliver to eight or nine industries?

A. Yes, sir.

Q. And you didn't have time to run it down to see to what extent the number of industries had increased since your time?

A. We couldn't do it.

Q. The way Kansas City has been growing, you think there has been a little increase there?

A. Yes, sir.

4075 Q. It has made quite an increase?

A. We feel a little proud of it—I know I do.

Q. Was there anything else in the way of a written report?

A. No, sir.

Q. That was the extent of the written memoranda you made in the matter?

A. Yes, sir; that was for my own convenience.

Q. And that is the result of it all?

A. You have it all, as if I had been talking until six o'clock. That is about the sum and substance of it all.

Redirect examination.

By Mr. LADD:

Q. Are there any round-houses, or repair shops of any kind, between the state line and the Kaw River?

A. No, sir.

Q. Where is the round-house, and repair shop?

A. West of the river.

Q. Are there a large number of industries, of various kinds, west of the state line?

A. Yes, sir. I do not know about the service rendered west of the state line.

At this point, a recess was taken until two o'clock P. M.

4076 After recess on Friday, February 9th, 1907, the following proceedings were had:

W. E. Wood, a witness of *al*wful age, being duly produced, sworn and examined, on behalf of the Defendants, testified as follows, to-wit:

Direct examination.

By Mr. John Kennish:

Q. What is your name?
A. W. E. Wood.
Q. Where do you reside?
A. Kansas City, Mo.
Q. How long have you resided there?
A. Off and on, about twelve years.
Q. What position do you hold in Kansas City, if any?
A. Police officer.
Q. How long have you held that position?
A. Pretty nearly a year.
Q. Have you had any experience as a railroad employé?
A. Yes, sir.
Q. To what extent?
A. I was with the railroad for about fifteen years off and on.
Q. In what position?
A. Brakeman, switchman most of the time. The last seven or eight years I switched around Kansas City most of the time.

Q. Have you been in the service of the Missouri Pacific
4077 Railway Company?
A. Yes, sir, I have.
Q. When and where?
A. I went there a year ago. I went to work there in the shops, and worked along up to about the middle of March a year ago.
Q. Any time before that?
A. Yes, sir; I worked for them in 1900 in Atchison.
Q. For how long a time?
A. For three months.
Q. Were you requested by Mr. Ladd to make an investigation of the Missouri Pacific terminals at Kansas City recently?
A. Yes, sir.
Q. With whom?
A. Mr. Ladd requested me, with Mr. McKee, to make an investigation.
Q. Did you make the investigation?
A. Yes, sir.
Q. When?
A. We started in Tuesday morning at eight o'clock.
Q. How long did you continue the investigation?

A. Two days, up to Wednesday night.

Q. You may state whether you were reasonably familiar with the Kansas City terminals before that time?

A. Yes, sir.

Q. Describe, just briefly, the parts of those terminals and the different yards?

4078 A. They have changed a little since I was working there, but I worked on what was called the west end of what was called the Kaw River Bridge. Now they have changed that, and taken all of those tracks out of there, and they do all the switching over in the Cypress Yards now.

Q. Tell what you mean by the "West End"?

A. They were west of the state line.

Q. Between the state line and the Kaw River?

A. Yes sir. They used to call that the "Hill Yard."

Q. And the "West End," also?

A. "The West End," they called it, and some called it the "Hill Yard." It always went by the name of the "Hill Yard."

Q. Describe the other yards?

A. In the east bottoms, I have been there but I never worked there.

Q. Where are they?

A. They are situated in East Kansas City. They have two humps in there that they work over. I was all over there, and saw them working on the humps. I have taken transfers over there, and brought them out of there, but I never worked there.

Q. You have gone down there?

A. Yes sir.

Q. In your switching, while you were there?

A. Yes sir, while I was in the service there I took stock down there, and brought some dead freight back in the train.

Q. You said some of the tracks were taken ou*f* of what they called the West End or Hill Yard?

A. Yes sir.

4079 Q. That is the yard between the state line and the Kaw River?

A. Yes sir.

Q. When were they taken out?

A. They were taken out—it has been quite awhile ago—I cannot say exactly; but along about last spring they took them out, and changed them all around.

Q. You have referred to the Cypress Yards: explain where they are?

A. That runs north of the Bridge. It starts in right over the Bridge, the tracks lead down into the yard. It must be east of the bridge nearly a quarter of a mile to the place where the main yards are.

Mr. HAGERMAN:

Q. Is that west of the bridge?

A. I always called it west, but it is north of the bridge. They call it North Cypress, and South Cypress.

Mr. KENNISH:

Q. Explain about the trackage, in what you call the Cypress Yards, as compared with the trackage in the State Line yards, considering the State Line yards as those between the Union Depot and the Kaw River?

A. There are about thirty to thirty-five tracks there.

Q. In the Cypress Yards?

A. Yes sir. That includes rip-tracks, and other tracks, where they break up trains.

Q. What are rip-tracks?

A. Where they do repairs.

Q. What are the Cypress Yards used for mostly?

A. For making up and breaking up trains, mostly.

4080 Q. Are there any yards there used separately, except those used for the freight business, any part of the yards?

A. Oh, there is some there used for holding tracks, to hold cars on. They have holding tracks there.

Q. Is there any part of the Cypress Yards assigned to the passenger business?

A. They have a kind of a different yard; they have a coach yard, and that sets off west of the Cypress Yards, but it all runs down into the repair track.

Q. What is that called?

A. The coach track.

Q. What is it used for?

A. Cleaning coaches; and they repair coaches there. They take out a brake-shoe, or if they need a new wheel they put that in over there, or something like that.

Q. That is on passenger trains?

A. Yes sir.

Q. State what if anything you know in regard to making up or breaking up passenger trains in the Cypress Yards?

A. They make them all up there. They have a switch crew there that does nothing but handle them. They have a coach crew that does nothing but handle passenger cars, making up and breaking up trains. They are made up and backed into the passenger yards by the hostler.

Q. Is any other yard used for making up and breaking up trains, except that one?

A. No sir, that is where they make up and break up all of them.

4081 Q. State briefly with reference to the freight business done in the Cypress Yards.

A. How?

Q. Making up and breaking up trains, and how they are made up and broken up?

A. Eastbound, southbound, and westbound trains are broken up at East Kansas City, and hauled over by the transfer to the Cypress Yards. They are made up in trains, and the caboose and the round-house is there. They cut off the caboose, make up the train,

run around and put the caboose on, and the train is made up for the north. They make up all the trains for the north over there.

Q. Do I understand you that all trains with freight westbound are broken up in the east yards and taken to the Cypress Yards, and there made up into trains to go west?

A. The west trains, they are broke up there, and they throw over and switch off the short stuff there, over the humps.

By Mr. HAGERMAN:

Q. You mean such things as are going north?

A. They take out the north stuff. They have certain tracks to put this stuff on that goes north. When I was working there last year they mixed up that north stuff altogether. They pulled that over to what we called the west end, pulled off that north stuff, took it off north over the river, and shoved that short house stuff over the hill.

Q. What is "short house stuff"?

4082 A. That is what goes to these industries.

Q. Going from the private industries up north?

A. No, sir, what goes to the private industries there in Kansas City. That is the way they made them up last year. That is all torn out there now.

Mr. KENNISH:

Q. All freight coming into Kansas City from the east and south, bound for points on the lines running north and northwest, except that terminating in Kansas City, would be taken to the Cypress Yards, and the trains made up at that point?

A. Yes, sir, in the Cypress Yards; hauled over there by the transfer engines.

Q. Explain the handling of freight that would be eastbound, coming into the terminals from the north and northwest, Omaha, Beatrice and such points?

A. They would switch the short house stuff out there, and what goes over east they would put into the transfer, and they are hauled over east by the transfer engines.

Q. The trains would be broken up?

A. Yes, sir, hauled there, and all that Kansas City stuff would be left there. They would not haul it all over to East Kansas City and bring it back again. It is all throwed out there on different tracks. They keep that there, and the rest of the transfer, that which goes east, south and west, goes over to the East Yards, and is made up in trains over there.

Q. The same engines and train crews operate in the Cypress Yards, do they?

A. They have four engines there working. That is what

4083 they call switch engines.

Q. That is in the Cypress Yards?

A. Yes, sir.

Q. West of the Kaw River?

A. Yes, sir.

Q. Explain how the livestock is handled: first that which comes in from the north and west, and then that which comes in from the east?

A. It is all pulled over, and weighed over there outside of the state line, pulled over automatic scales, and weighed, and then shoved around into the stockyards. From the east, it is done the same way. The transfer engine will bring it over to them, and if there is not a transfer engineer they will get a couple of fellows who do nothing else but ride these stock trains, take an engine, come up the east side, get a helper, get this stock, cut it off, and bring it back, and then have a switch engine to handle this stock, weigh it, and shove it into the stockyards.

Q. You may state whether or not some of the livestock business, coming from the west and north of the stockyards, and some of the livestock business going from the stockyards, to the west and the north, is handled without its getting into the State of Missouri at all?

A. Yes, sir, pretty nearly all of it is handled without going into the State of Missouri at all.

Q. Explain to the Master where the scales on which freight is weighed, as you have referred to it, are located.

A. Give me a piece of paper, and I will explain how it is.

4084 (Witness here makes sketch.) Say this is the main line coming from the bridge down here (indicating). Here are the scales down here (indicating). They pull down over the scales, this way (indicating), and here is a switch about a car-length or two car-lengths from the end of the scale.

Q. You cannot get that into the record very well. Please describe how they are, in reference to the state line and the bridge.

A. About sixteen hundred feet from the state line.

Mr. HAGERMAN:

Q. From the state line to where?

A. Between the state line and the bridge, west of the state line.

Mr. KENNISH:

Q. Where are the scales with reference to the state line and the bridge?

A. Midway between the state line and the bridge.

Q. What distance are the scales across the state line in the state of Kansas?

A. As I say, about sixteen hundred feet from the state line is the scales.

Q. The scales?

A. Yes, sir, west of the state line.

Mr. HAGERMAN:

Q. The scales are sixteen hundred feet west of the state line?

A. Yes, sir, and maybe more than that.

Mr. KENNISH:

Q. How far is the bridge from the state line?

A. Maybe a little further than that. It may be, well not much further—but maybe a little bit further.

Q. The scales are not in a direct line from the state
4085 line, between the state line and the bridge?

A. No sir.

Q. What is the extent of the live stock business down there, Mr. Wood?

A. Sometimes there is lots of it, and other times, of course, not so much. The stock days there are about Tuesdays and Wednesdays, when they have a rush. They handle quite a few cars there. Of course I can't state exactly how many. But I seen the other day, from observation over there, that they had all the chutes full, and had lots of cars waiting to shove in there. I cannot tell how many cars there were; but there is lots of stock business there.

Q. With reference to the business done by the Missouri Pacific Railway, stock business?

A. All the stock unloaded and loaded in Kansas City, Kansas, that is on the Missouri Pacific. The stockyards are in Kansas.

Q. I would like if you would explain again how far it is from the state line to the Kaw River, in your judgment?

A. The state line to the Kaw River is very nearly a quarter of a mile.

Q. How far is it from the Kaw River to where the scales are?

A. It must be a little over half way from the State line to the scales; a little over half way, that is east, about two-thirds of the way from the bridge.

Q. The scales would be?

A. Yes sir, two thirds of the way from the bridge; not quite two-thirds.

4086 Q. From the bridge to the scales?

A. Yes, sir.

Cross-examination.

By Mr. HAGERMAN:

Q. You are a policeman at Kansas City?

A. Yes, sir.

Q. A patrolman?

A. Yes, sir.

Q. And have been such for a year?

A. Yes, sir.

Q. What is your salary?

A. About eighty dollars is what they pay.

Q. What is your age?

A. I am thirty-nine years old.

Q. And your previous experience was in the railroad business, as brakeman and switchman?

A. Yes, sir.

Q. As brakeman or switchman, how much did you earn?

A. It was according to how I worked. If I worked all the month, I would make on the average ninety to a hundred dollars, and I have made as high as a hundred and twenty.

Q. What was the minimum?

A. About ninety to ninety-five dollars a month.

Q. For seven or eight years of that time, you were about Kansas City: and how much of that time with the Missouri Pacific?

A. I was with the Missouri Pacific three months.

4087 Q. From January to March, and that was about a year ago?

A. Yes, sir.

Q. Any other time you were with the Missouri Pacific, you were not at Kansas City but at Atchison, Kansas?

A. Yes, sir.

Q. Where did you work for the Missouri Pacific for those three months?

A. That was in Kansas.

Q. I understood three months, January to March, in Kansas City?

A. Foreman of the Hill engine.

Q. What do you mean by "the Hill"?

A. That is what I told you about, the West End.

Q. You were limited to the district between the state line and the Kaw River bridge?

A. No, sir, all over the yards, wherever they see fit to send me. But I took the Hill there, at six o'clock in the evening, and stayed until seven o'clock in the morning.

Q. Where would you get that engine?

A. They changed engines, three switch shifts; then but not now. They tore it out.

Q. Where was that?

A. Between the state line and the Kaw River bridge.

Q. That is where you found your engine?

A. Yes, sir.

Q. Whereabouts did you work?

A. Go down the big long tracks, through the Hill, those

4088 transfers in, and switch those transfers out.

Q. How far west would you go when you were doing the general switching business?

A. Pull as many cars as you could handle.

Q. How far west would you go in doing your service?

A. Sometimes go clear over to Cypress, wherever they would send me.

Q. I know you would go wherever they would send you; but how far west would they send you?

A. Sometimes over to Cypress.

Q. How far east would they send you?

A. To Southwest Junction.

Q. You had no special limits over which you worked?

A. It was supposed to be a Hill engine, but you went any place they would send you. Suppose a transfer engine had gone out east, and a rush showed up, they would cut out the engine on the hill, and

say, "Rush that over to Kansas City east," and you would have to rush over there and transfer that over.

Q. As what were the Cypress Yards known in railroad circles?

A. At the time I worked there, it was known as West of the Kaw River Bridge.

Q. You never heard of any part of the Cypress Yards being east of the Kaw River Bridge?

A. Only since they took that hill away from there.

Q. Let us get this thing right. So far as your experience in working over there in the yard is concerned, you never heard the
4089 name "Cypress Yards," applied to anything east of the Kaw River?

A. Never.

Q. You never heard "Cypress Yards" applied to anything east of the Kaw River until you heard Mr. McKee testify to it this morning?

A. That is the first time. They done away with the hill and it is called the Cypress Yards——

Q. That is what Mr. McKee said. What do you know about that? You never heard it until Mr. McKee testified, did you?

A. Yes, sir, I did. I go down there every time I have time off.

Q. When did you hear the name "Cypress Yards" applied to east of the Kaw River?

A. Lots of times.

Q. When was once?

A. Last week. A fellow said, "It is known as the Cypress Yards now."

Q. Was that the only time you ever heard it called Cypress Yards, until Mr. McKee say so?

A. Yes, sir.

Q. What is the state line yard?

A. That is where the line goes through that divides Missouri and Kansas; that has a post there that is the state line.

Q. What is the State Line yard?

A. There ain't no yards in there. They used to call them the state yards.

Q. When you worked there, what were the State Line Yards?

4090 A. There were several tracks in there then, but not near so many now.

Q. When you worked there, where were the east and west boundaries of the State Line Yards?

A. The state line at the post.

Q. Was that the east boundary, or the west boundary?

A. The east and the west boundary, too.

Q. The yards could not have been bounded on the east and the west by the state line: where did they commence on the east, and where did they end on the west, when you were there?

A. They would go up in Kansas on the west, and run down to Kansas City Junction on the east.

Q. Where did the State Line yard begin?

A. It began on the east side, and run up on the west side.
Q. It began where on the east side?
A. At Southwest Junction.
Q. And everything from the Southwest Junction up to the State Line, was included in the State Line Yard?
A. "State Line Yard," they call it. I don't know anything about that.
Q. What did they call it when you were there?
A. I have told you according to the best of my ability.
Q. Did it begin at the Southwest Junction?
A. "State line" they called it right there. They go down to the state line. That is all there is to it.
Q. There is no such thing as a State Line Yard?
4091 A. Not that I know of.
Q. All the time you were there, there was not such a thing as the State Line Yard?
A. No such thing as the State Line Yard while I was there.
Q. Have you since then heard of such a thing as the State Line Yard?
A. No sir.
Q. You never heard of such a thing in your life?
A. No sir.
Q. As far as the State Line Yard is concerned, you never heard of it until these questions were asked you?
A. No sir.
Q. What yard did you call it, beginning at the station on Hickory Street?
A. That was called Hickory Street down there.
Q. The Hickory Street Yard?
A. Yes sir.
Q. Was that the name while you were there?
A. That is what they called it while I was there.
Q. And these two days you were down there, did you find out that was still the name of it?
A. Yes sir.
Q. You found that out the last day or two?
A. Yes sir; and I knew it before that.
Q. You knew it when you were there?
A. I knew it when I was there.
Q. And you found it out the other day?
A. Yes sir.
4092 Q. And the only name given to these yards was "Hickory Street Yards"?
A. That is all I heard. Also "Go down to the State Line," or "Go down there and get a car."
Q. I am talking about the Hickory Street Yard?
A. That is the name it went by.
Q. That extended from Hickory Street to where?
A. To the state line.
Q. It stopped at the state line?
A. They did not designate it. They would say, "Go down to Hickory."

Q. Where did the Hickory Street Yard end?
A. I don't know where it ended at.
Q. I want to know if, when you worked there, there were two yards, the Hickory Street Yard, and the West End Yard, or if it was all one thing?
A. They called one the "West End," and the other the "Hickory Street Yard"; that's all I know.
Q. They have a bulletin and time-card?
A. I know that; but they call it the Hickory Street Yard.
Q. Was the West End yard one yard, the Hickory Street yard another, or were they part and parcel of one yard?
A. Part and parcel of one yard. But they called it "The West End," up on the hill.
Q. It was all one yard, where the state line was a mere imaginary line crossing it?
A. Yes, sir.
Q. And doing your work there you paid no attention to the state lines?
4093 A. Paid no attention.
Q. You could hardly make a movement in that yard without crossing the state line?
A. You could—yes.
Q. But you didn't do it?
A. We didn't do it. Of course sometimes we would go down there and pull up cars and switch them on the west side.
Q. Without touching the state line?
A. Yes sir.
Q. But, as an ordinary thing, every time you did switching you would cross that state line?
A. If you pulled in forty or fifty cars, it would run down pretty nearly to the state line. You might pull out a cut of cars, and wouldn't touch the state line; and then the next time you would go over the state line.
Q. Practically every time you did any switching at all, whether in the West End Yard or the Hickory Street Yard, you would have to cross the state line?
A. Of course, you had to cross the state line.
Q. Let me see how sure you are about these distances: from the state line to the Kaw River Bridge is about how far?
A. About a quarter of a mile.
Q. How many feet is that?
A. I don't know.
Q. Do you know how many feet are in a mile?
A. I never figured it out.
Q. You don't know that?
A. No sir.
4094 Q. As near as you can say, it is a quarter of a mile?
A. Yes, sir.
Q. From the state line to the unloading chutes of the stockyards, along the line of the Wyandotte & Northwestern Railroad, would be about the shortest way?

A. Yes, sir.
Q. How far is that?
A. From the state line up there?
Q. Yes.
A. It was pretty nearly the same.
Q. A quarter of a mile?
A. The bridge is here (indicating), and here is the stock chutes around here (indicating).
Q. Let us get it straight. You don't know how many feet there are in a mile, but would you say from the state line to the bridge is a quarter of a mile? And would you say that from the line to the unloading chute was also a quarter of a mile?
A. Pretty nearly a quarter of a mile.
Q. How much less?
A. Three or four hundred feet less.
Q. Can you come any nearer to it than that?
A. No, sir.
Q. Could you give us how near it was? You seem to know how much three or four hundred feet is.
A. I never measured it.
Q. How far from the state line to the unloading chute would that be?
A. I cannot say.
4095 Q. From the state line to the centre of the track scale, how far is it?
A. I should judge about sixteen hundred feet.
Q. From the state line to the switch, leading into the stockyards, is what distance?
A. It would be maybe fifty or sixty feet further.
Q. That would be over sixteen hundred feet again?
A. Yes sir.
Q. From the west end of the old freight house to the state line was how far?
A. The west end of the freight house?
Q. The old freight house: you know where that was.
A. Yes sir.
Q. How far was that?
A. I can't tell you exactly.
Q. About?
A. It would run pretty close to the state line. It wasn't very far from it.

Mr. LADD: What do you mean by the old freight house?
Mr. HAGERMAN: He says he knows where the old freight house was.

A. I know where it was, but I never gave a guess.
Q. You are giving these distances, and I want to know how familiar you are with it: How far from the old freight house to the state line?
A. I couldn't estimate it at all.
Q. Could you give a guess?

A. I couldn't give a guess.

4096 Q. Could you come within a thousand feet of it?

A. I don't believe I could.

Q. Was it fifteen hundred feet?

A. No, sir, I don't believe fifteen hundred feet. I don't believe a thousand feet.

Q. Was it less than a thousand?

A. I don't know, whether it was five hundred or five feet.

Q. That is as near as you can come to it?

A. Yes, sir, I never measured it. I never looked for the old freight house.

Q. Do you know where the west end of the outbound freight house, which is now being built, is?

A. Yes, sir.

Q. How far is that from the state line?

A. Not very far from the state line.

Q. How close?

A. The platform may run into the state line.

Q. Could you tell us how close it is?

A. I cannot give you any idea, but I think the platform there runs right into the state line.

Q. Do you know where the present inbound freight house is?

A. That is the new freight house they just put up there, I think

Q. You know the difference between the inbound and the outbound freight houses?

A. I never looked at the freight houses, but I know there was a new freight house put up there.

Q. Do you know where the inbound freight house is?

A. I never asked them whether it was inbound or outbound.

4097 Q. How close is this other freight house, the one which you do not know whether it is inbound or outbound, to the State line?

A. I don't know.

Q. Have you any idea? Is it two thousand feet?

A. I have no idea.

Q. One thousand feet?

A. I never looked at it.

Q. Five hundred feet?

A. I don't know.

Q. When you made that examination, did you make any measurements?

A. No, sir.

Q. Did you make any memorandum of your examination down there?

A. Yes, sir.

Q. What kind of a memorandum?

A. About how the yards were situated.

Q. Who made that?

A. McKee and I.

Q. You both made written memoranda?

A. Yes, sir.

Q. What about?
A. About the way the work was handled there, was the only thing.
Q. In what way?
A. What switching was done in Cypress and what was done in the East Bottoms.
4098 Q. Anything else?
A. About the industries. We took the names of the industries, about fifty-nine.
Q. Anything else?
A. That is all.
Q. Who wrote it, you or McKee?
A. McKee.
Q. Did you both sign it?
A. Yes, sir.
Q. To whom did you deliver it?
A. I think Mr. Ladd has it.
Q. You are certain about that? You both made a written report, and it covers all these things you have talked about?
A. Yes, sir, pretty nearly everything we have talked about.
Q. You say now that when cars came in from the south or east, into the East Bottoms Yards, that were to go north on the Missouri Pacific, they were transferred, and the train made up at Cypress Yards?
A. Yes, sir.
Q. When that train was made up, where would it start from?
A. What they call "North Cypress." There is a telegraph office there, in the north end of the yard, called North Cypress.
Q. And the train would not start from the state line at all?
A. No, sir, not from the state line. It would start from the north end of Cypress.
4099 Q. When they made up a train going east or south, where would it start from?
A. It would start from the East Yards.
Q. That is to say, if a train was made up to go on the road leading up towards Atchison, that would be made up in what you call the Cypress Yards, and start from there?
A. Yes, sir.
Q. Wherever the cars may have been brought from?
A. Wherever they may have been brought from. They would be made up where they got them.
Q. Up to the time it was made up, it would be a transfer or switching problem?
A. Yes, sir.
Q. They might be brought from another track, or another railroad, or brought from the other yards of the company?
A. Yes, sir.
Q. And so, when anything was to go out through Missouri, whether going south or east, the cars would be switched or transferred from the different yards, whether they came from different railroads or were cars of the Missouri Pacific, down into the East Bottoms Yards?

A. Yes, sir.
Q. And there the train would be made up, and start from Kansas City, Mo., from the East Bottoms Yards?
A. Yes, sir.
Q. How many cars were at work in the different yards, as you remember?
A. There were four over in the Cypress Yards.
4100 Q. Now I assume, as Mr. McKee says, that they worked indiscriminately in what you call the Cypress Yards, and what he calls the Cypress yards, that is, on both sides of the river, and both sides of the state line: that is right, isn't it?
A. Yes sir.
Q. That is four. Now what others are there?
A. Then there were two transfer engines.
Q. They worked without regard to the state line, from one end of the yards to another?
A. Yes sir, without regard.
Q. You mean by transfer engines and crews, engines and crews transferring cars from one yard to another?
A. Yes sir.
Q. What others were there?
A. Seven engines at Hickory Street.
Q. That is thirteen?
A. Yes sir, including Grand Avenue.
Q. That makes thirteen?
A. Yes sir.
Q. When did you discover the thirteen—on this two days' trip?
A. Yes sir.
Q. What time, day or night?
A. Daytime.
Q. How could you find that out?
A. I saw them switching.
Q. How could you tell one from the other?
A. It was daytime, and they were switching.
Q. How could you tell they were different ones?
4101 A. I know the men.
Q. Did you make any memorandum of that?
A. Yes, sir.
Q. Was that put into the written report you signed?
A. Yes, sir.
Q. How did you find out there were any night ones, and the number of them?
A. We did not find that out. We did not investigate at night.
Q. Did you make any report about the number at night?
A. No, sir.
Q. You made a report about the daytime only?
A. There were twenty-one working, day and night.
Q. How did you find out about the twenty-one?
A. They had a board there and marked them up.
Q. You found out about the night engines on the board?
A. Yes, sir.

Q. How would you do that?
A. They marked them up on the board, and left them there.
Q. Until the next day?
A. Yes, sir.
Q. As I understood you, you found out about the thirteen day trains from actual sight?
A. Yes, sir.
Q. And you made a report in writing about that?
A. Yes, sir.
4102 Q. And both you and Mr. McKee signed it?
A. Yes, sir.
Q. McKee doing the writing?
A. Yes, sir.
Q. And you found there were twenty-one, night and day, by seeing the posting of the bulletin on the board?
A. Yes, sir.
Q. And so you found out there were thirteen in the day, and eight at night?
A. They do not work that pump engine there at night at all.
Q. They do not work the thirteen at night, you say?
A. No, sir.
Q. What compensation did you get for doing this work?
A. Nothing.
Q. You are just doing it gratis?
A. Yes, sir.
Q. What interest have you in this controversy?
A. No interest in it, either way. I was telling the truth about it, as I know it, and it makes no difference to me.
Q. How comes it that police officers of the city go and do this work without any thought of compensation?
A. Because we had been switchmen, and we were told by the Chief to go and do it.
Q. Who asked the Chief for permission?
A. Mr. Ladd.
4103 Q. Had you ever known Mr. Ladd before?
A. No, sir.
Q. When did you first see Mr. Ladd?
A. Monday.
Q. And can you give no other reason on earth, why you came into the case?
A. That is the only reason.
Q. He suggested he would like to have you make this examination?
A. Yes, sir, and we went and made it for him.

Redirect examination.

By Mr. KENNISH:

Q. In regard to these engines and crews operating terminals at Kansas City, you stated four engines and crews at Cypress Yards would sometimes operate east of the Kaw River?

A. Yes, sir, sometimes they send them east. They can't tell where they are going.

Q. I will ask you if the engines and engine crews at the East Bottoms Yards would not also frequently be sent west of the Cypress Yards?

A. Yes, sir, they would be sent west. You cannot tell what they are going to do with you. If they need an engine they send you from one yard to another.

Q. The matter of these distances that Mr. Hagerman asked you about, Mr. Wood: I will ask you if you made any measurements, or gave any particular attention to those measurements?

4104 A. I never made no measurements. I kind of judged by my eye. I never made no measurements at all. I just kind of guessed at it.

Q. Those were just mere guesses you were making?

A. Yes, sir, mere guesses.

Q. You stated there was a change made in what you call the West End or Hill Yard, since you worked there?

A. Yes, sir.

Q. Explain to the master what that change was?

A. They have taken all those tracks out of there, and they don't do any more work on the hill like they used to.

Q. You said that when you worked at the yards there, you found your engine near the state line, and the bridge across the Kaw River?

A. We relieved that crew there at nine o'clock, and got that engine sometimes in front of the switch-shanty, and sometimes a little further down the track. If they got through work, and we were ready to go to work, we would pick it up between the state line and below the switch shanty. Sometimes it would be standing right in front of the switch shanty.

Q. Where is the work done now, that was formerly done at the West End or Hill Yard?

A. It is done at the Cypress Yards.

Q. On the west side of the Kaw River?

A. On the west side of the Kaw River.

Q. Mr. Wood, will you explain about what kind of tracks and the number of them there are from the bridge across the Kaw River, east along to the freight house?

4105 A. It might be eight, nine or ten tracks. About ten tracks along there, but I never counted them.

Q. What kind of freight business is done on those tracks?

A. Where they come down to the stockyards, and one of them is the main line, and another comes down over the scales, they come down away, and then shove down another track. And there are some house tracks, and a couple or three team tracks.

Q. Are any trains made up or broken up along there?

A. No, sir.

Q. Either freight or passenger?

A. No, sir, no freight or passenger. Sometimes they might change an engine over there, according to what they need at the time.

Mr. HAGERMAN: The Railroad Company objects to the allowance of any mileage to these witnesses, M. C. McKee and W. E. Wood, for coming all the way from Kansas City to St. Louis to testify, when they could have been examined at any time at Kansas City.

The MASTER: That is a matter to be determined upon motion to tax or re-tax costs.

The Witness CHARLES S. LUDLAM was here recalled to the stand.

4106 On Friday, February 8, 1907, the direct examination of Mr. Charles S. Ludlam was resumed, as follows:

By Mr. S. B. LADD:

Q. I wish you would take again Exhibits 28 and 29: In the second column of Exhibit 28, Mr. Ludlam, you have the figures 3.734 cents as an estimate of the cost per ton on the State freight, or train service, upon the basis that the train service for the State freight costs twice as much per ton as the train service for the interstate freight; that is what that means?

A. Twice as much per ton per mile, yes, sir.

Q. The 3.734 cents is the cost per ton?

A. Yes, sir, on the basis of its costing twice as much per ton per mile.

The MASTER:

Q. That is per ton per mile?

Mr. LADD: No, sir. If your Honor will look at the first heading of cost per ton.

A. That column represents the cost per ton, based upon the cost per ton mile being twice as great on State as on interstate freight.

Q. The cost per ton per mile is in there, but these figures represent the cost per ton for State freight, do they?

A. Yes, sir.

Q. I wish you would explain how you reach that.

A. The cost——

Q. What do you start with?

A. That is what I was going to explain.

4107 The cost per 100 miles for train service on the Missouri Pacific Railway, as shown by Form 1941, is 4.1 cents. The ton mileage in the State of Missouri is shown by Exhibit 19 to be 14 ton miles of State freight to 86 ton miles of interstate freight.

Q. What is Exhibit 19?

A. Exhibit 19 is the statement of the freight business of the Missouri Pacific Railway in Missouri during the month of October, 1905.

Q. That showed the proportion of State ton miles of freight handled in Missouri was 14 and of interstate 86; is that right?

A. Yes, sir, approximately. That statement shows actually that out of each 100 ton miles the State freight moved 13.88 ton miles and the interstate freight moved 86.02 ton miles.

Q. But you discard the fractions and call it 14 and 86?

A. I discard the fractions for the purposes of these calculations as they are so small, and call it 14 for State and 86 for interstate ton miles.

Q. That was the operation of the Company for the month of October, 1905, in the State of Missouri?

A. Yes, sir.

Q. Proceed.

A. If the State freight cost double, you would multiply the 14 by 2, which would give 28, and to that 28 you would add the interstate mileage of 86, which would give you 114. You would
4108 then take the cost as shown by Form 1941, 4.1 cents, and divide it by 114, which would give you the unit of .0359 cents per ton per mile. You would take that unit of .0359 cents and multiply it by 105.

Q. Why?

A. Because Exhibit 19 shows that all of the interstate freight in the State of Missouri during the month of October, 1905, was hauled on the average 105 miles.

The result of that calculation gives you 3.7695 cents as the cost per ton of the interstate freight in the State of Missouri, for the train service.

Q. You multiply the unit of cost per ton mile, 3.59, by the number of ton miles, 105, and then you have the cost per ton of hauling the interstate freight; is that right?

A. Yes, sir.

Q. Which is how much?

A. Which is 3.7695 cents.

Q. That appears in column 2 of Exhibit 28, which is devoted to the interstate freight, does it?

A. Yes, sir.

Q. Go on.

A. You would then take your unit of cost per ton mile of .0359 cents and multiply it by 2 to get the cost of the State tonnage per mile.

Q. That is on the theory of its costing twice as much per ton mile; is that right?

A. Yes, sir.

Q. What did you find?

4109 A. That multiplication gives you .0718 cents as the cost per ton mile for the train service for State freight, if it costs twice as much per ton per mile for the State freight as it does for interstate freight. You would then multiply that .0718 cents by 52 miles, because the State freight is shown to have moved an average of 52 miles to each ton, by Exhibit 19.

Q. That is the October business of the Missouri Pacific Railway Company?

A. Yes, sir. The State freight moved on an average 52 miles during the month of October, 1905.

Q. What does that produce?

A. That produces 3.7336 cents.

Q. It is 3.734 here?

A. In Exhibits 28 and 29 we did not carry it out beyond the 1/1000 part of a cent; and in the figures I have just given you it is carried out to the 1/10,000 part of a cent.

Q. That is the way you reached your 3.736 cents?

A. Yes, sir.

Q. That is the cost per ton for carrying State freight; is that right?

A. Yes, sir.

Q. Your figures for engine service in Exhibit- 28 and 29 are reached in the same way, are they?

A. Yes, sir.

Q. You go back to Form 1941 for the cost per 100 ton miles?

A. Yes, sir.

4110 Q. For all kinds of freight on the system?

A. Yes, sir.

The MASTER:

Q. Your basis of calculation was not per ton mile, but per 100 ton miles. Did you make the allowance by dividing by 100 or reducing it to tons?

A. I made the allowance by dividing it by 114, 114 being the result of multiplying by 14, the State's proportion, by 2 which gave me 28; and adding to that 28 the interstate proportion, which was 86.

Q. You start with the basis of cost per 100 ton miles and you end with the cost per ton mile, and then multiply by the number of miles to get the cost per ton?

A. Yes, sir.

Q. Did you make that allowance for the starting point, that being 100 instaed of a single ton cost?

A. Yes, sir, that is what I was trying to make clear. That 100 ton miles must include 14 ton miles of State freight and 86 ton miles of interstate freight, because, as shown by Exhibit 19, of every 100 ton miles of freight in Missouri 14 ton miles was State freight and 86 ton miles were interstate freight. Now before dividing it to get the cost per mile, I multiply the State freight by 2, and so instead of dividing the 4.1 cents by 100, I divide it by 114, which gives me the unit of cost per ton mile.

Mr. HAGERMAN:

Q. When you get there to the end you call it "cost per ton." But when you get to the end of it, you mean "cost per ton per mile." Because all on earth, if you wanted to get the cost
4111 per ton, you would have to do would be to take the total tonnage and divide it by the mileage. You have not allowed for the rest of the distance. When you call it simply tons, aren't you fooling yourself about it, and isn't it after all tons per mile?

A. No, sir, I am trying to prevent any deception, and to make it clear and get the actual facts.

I get the unit of cost per ton per mile, and then multiply that unit by the mileage which the interstate freight was hauled on the

average; and multiply that same unit by the amount equal to twice the unit of cost for the State freight, because it is assumed in this example that the State freight costs twice as much per ton per mile as the interstate freight.

Q. To get it through my head—suppose the total tonnage was 10,000.

A. Yes, sir.

Q. And the total expense was 20,000 cents; that would be 2 cents per ton, wouldn't it?

A. Yes, sir.

Q. Then you do not have to go through any circumlocution to get that result. And yet, if there had been a difference in the haul you would figure it out and possibly make that four cents or one cent. Therefore, when you get through, don't you, although you call it tons in the end, figure out what it is per ton per mile?

A. No, sir.

4112 Q. That is the way I figure your figures, that is all.

A. Taking your example of 10,000 ton miles that you speak of——

Q. There are no ton miles in that at all. The road just hauls 10,000 tons and it costs 20,000 cents to do it. I say that is 2 cents per ton.

A. If of those 10,000 tons you are referring to, 1,000 tons were hauled one mile and the other 9,000 tons hauled 1,000 miles each, it would be preposterous to say that the tonnage costs 2 cents per ton. Of course it is apparent that a ton that was hauled 1,000 miles would cost more than a ton which was hauled only one mile.

Q. I understand all that; but when you take that all into consideration——

A. I get the unit of cost per ton per mile and then reduce it to the cost per ton by multiplying it by the mileage each ton was hauled.

Q. I would say you were figuring it on a ton mile basis. When you get to the end of it, really it is the ton per mile.

A. It is the cost per ton determined on a ton mile basis, assuming that the State business costs exactly double per ton per mile what the interstate business costs per ton per mile.

Mr. LADD:

Q. The Master spoke to you about commencing with 100 ton miles; why do you do that? Because Form 1941 deals with the cost of 100 ton miles? Is that it?

4113 A. Yes, sir.

Q. Form 1941 is where you got your start of 4.1 cents?

A. Those are the Company's own figures which show it cost them to move one ton 100 miles, 4.1 cents.

Q. That is, for 100 tons one mile, or one ton 100 miles?

A. Yes, sir.

Q. The Master asked you about taking 100 ton miles; have you made the allowance so as to reduce it to one ton mile, in the process of your calculation?

A. Yes, sir.
Q. Instead of 100 tons?
A. Yes, sir. I have reduced it to one ton mile, and then multiplied the unit of cost in the case of both State and interstate, by the distance hauled.
Q. And the fractions get a good deal smaller than they start with?
A. Yes, sir.

The MASTER:

Q. That calculation, dealing with miles instead of percentages, is precisely analagous to Mr. Sturgis's processes. His per cent became 136, as I remember it, instead of 100. And in your figures the miles become 114 instead of 100?
A. That is it exactly.
Q. And when reducing it back, instead of dividing by 100 you divided by 114?
A. That is it exactly.

Mr. LADD:

4114 Q. Assuming that the average cost for train service in Missouri for 100 ton miles is the same as it was on the system, and assuming further that the cost per ton mile for the train service on the State traffic is twice as much as on the interstate——
A. Per ton per mile?
Q. Yes, per ton per mile. And assuming that the average haul of the State traffic is 52 miles, and the average haul for interstate traffic is 105 miles, is this result mathematically correct?
A. Yes, sir, it is.

The MASTER:

Q. What you mean by results, I take it, Judge Ladd, is the result as shown in Exhibits 28 and 29.
Mr. LADD: Yes, Your Honor.

Mr. HAGERMAN:

Q. Why do you use the unit of cost for the ton mile on the entire system?
A. Because it is the only unit I have.
Q. Why didn't you use the unit of cost per ton mile in Missouri —because you haven't it?
A. Yes, sir.
Q. If you had it, you would prefer to use it—or, rather, you ought to use that instead of the other, on account of your own theory?
A. Yes, sir, I think if you had the cost per 100 ton miles in Missouri, it would be better than the cost per 100 ton miles on the system as a whole.
Q. Did you make any difference in the cost per 100 ton
4115 miles and the cost per ton mile?
A. Yes, sir, I make a difference of 100.
Q. If you had the actual cost per ton mile in Missouri, wouldn't that be the preferable way to make your calculations?

A. If I had the cost per ton per mile.
Q. In Missouri?
A. Yes, sir.

Mr. LADD:

Q. But you haven't that?
A. No, sir.
I should assume, Mr. Hagerman, without any specific knowledge in the premises, that on account of the greater density of traffic in the State of Missouri than on the entire system, that the engine and train service per 100 ton miles would be less in Missouri than it would be on the system as a whole.

Mr. LADD:

Q. You have not taken that into account in this calculation?
A. No, sir, the figures are based entirely upon the cost on the system as a whole, as shown by Form 1941.
Q. Mr. Ludlam, I wish you would look at Exhibit 30, which was formally put in evidence Wednesday last; I want to ask you some questions about it.
This statement, Exhibit 30, purports to be a statement of the gross earnings and operating expenses and net earnings of the Missouri Pacific Railway Company for the calendar year 1905, on the following basis:
You seem to have at the head eight paragraphs numbered 1, 2, 3, 4, and so on, and each one of these eight paragraphs in-
4116 volves to a certain extent at least, an assumption, an hypothesis, doesn't it?
A. Yes, sir.
Q. First, that of the interstate freight earnings (mentioning the amount) that is taken from Exhibit 5?
A. Yes, sir.
Q. You took the Complainant's figures for the interstate freight earnings there?
A. Yes, sir.
Q. 80.99 per cent. was derived from the carload business; where did you get that percentage?
A. That is shown by Exhibit 19, which represents the business of the Missouri Pacific Railway in the State of Missouri during the month of October, 1905.
Q. That was an exhibit prepared by yourself and your assistants?
A. Yes, sir.
Q. After an examination of the business of the Company for that month?
A. Yes, sir.
Q. And if the results reached by you were accurate, 60.99 per cent. of the business of that month was from carload business?
A. 60.99 per cent. of the total interstate earnings were from interstate carload business.
Q. And 19.01 per cent. was from less than carload business?

A. 19.01 per cent, of the total interstate earnings were
4117 from inter-state less than carload business.

Q. The last sentence of that paragraph states that the inter-state earnings from services incidental to interstate traffic, $231,043.79 have been added to the earnings derived from inter-state carload business: Where do you get those figures?

A. These are shown by Exhibit 5, as I recall.

Q. That is from Complainant's Exhibit 5?

A. From Complainant's Exhibit 5-*a*, page 3.

Q. $3,777,390.45 is the amount of the inter-state freight earnings for the year 1905, as shown by Complainant's Exhibit 5-*a*, isn't it?

A. Yes sir.

Q. After you have divided up that amount between carload and less than carload business, according to the percentages which have just been mentioned, you add $231,043.75, the whole of it, to the carload business: Is that right?

A. Yes sir.

Q. $231,043.79 are also figures taken from the same Exhibit 5, aren't they?

A. Yes sir.

Q. Being the revenue from inter-state services incidental to the freight traffic?

A. Yes sir.

Q. Now why do you add all that to the carload business because you could not divide it?

A. No sir. Because it would appertain more largely to
4118 the carload business. It would appertain almost entirely to the carload business, being the switching of carload shipments, and demurrage on cars.

Q. At all events, you added the $231,043.79 to the $3,059,308.53, did you?

A. Yes sir. And that gives me $3,290,352.32 as the gross earnings from the inter-state carload business.

Q. Those are the figures at the head of each of the three columns of figures?

A. Yes sir, and those represent the gross earnings on inter-state carload business during the calendar year 1905.

Q. Your second assumption is, that of the State freight earnings $1,632,856.14 that you get from Exhibit 5, too?

A. Yes sir.

Q. 63.30 per cent was derived from carload business and 36.70 per cent from less than carload business: How did you arrive at those percentages?

A. Those are the ratios shown by Exhibit 19. That is to say, of the total earnings from State freight during the month of October, 1905, 63.30 per cent was derived from carload business and 36.70 per cent from less than carload business.

Q. That was the percentage, was it, for the month of October, 1905?

A. Yes sir.

Q. And you assume that that same percentage of earnings between State less than carload and State carload business prevailed during the entire year: Is that it?

4119 A. Yes sir.

Q. You put in the State earnings from services incidental to State traffic, or earnings derived from carload business, just as you did in regard to the inter-state?

A. Yes sir.

Q. Do you think that is right?

A. Yes sir.

Q. Your third assumption is that the earnings in Missouri from inter-state carload business averaged 6 mills and about $\frac{8}{9}$, per ton per mile: Where did you get that and why do you use those figures?

A. Those were the earnings per ton per mile realized by the Company from its inter-state carload business in Missouri during the month of October, 1905, as shown by Exhibit 19.

Q. That is accurate, is it?

A. Those were the actual earnings during the month of October from the inter-state carload business.

Q. And you assume that the earnings were the same on that kind of business during the entire year?

A. Yes sir.

Q. It is suggested to me that I ask you where there were some deductions on account of claims, some small matters, that you did not take into account and did not take out of those earnings, for the month of October, 1905?

A. Yes sir.

Q. Did they amount to much?

4120 A. No sir, they were very immaterial and probably would not affect the average per ton per mile at all.

Q. Your next statement is that the earnings from inter-state less than carload business were 2 cents and a little over 8/10 of a cent per ton per mile: Was that actual for the month of October?

A. Yes sir, those were the actual earnings per ton per mile realized by the Company from its inter-state less than carload business during the month of October, 1905, as shown by Exhibit 19.

Q. And you assume that the same conditions prevailed during the rest of the year, in getting up this exhibit?

A. Yes sir.

Q. The fifth assumption states that the earnings from State carload business averaged 1.21 and a fraction cents per ton per mile: Where did you get that?

A. Those are the earnings realized by the Company from its State carload business during the month of October, 1905, as shown by Exhibit 19.

Q. And you apply the same ratio of earnings to the whole year, do you?

A. Yes sir.

Q. Assuming that that was the average for the whole year?

A. Yes sir.

Q. The next assumption is that the State less than carload busi-

ness earnings averaged 4 cents and nearly ½ a cent (I am
4121 disregarding the fraction) per ton per mile: Was that actual as the result of your investigation of the business of the Company for the month of October, 1905?

A. Yes sir, as shown by Exhibit 19.

Q. And this exhibit is on the hypothesis that the earnings were the same per ton per mile during the whole year, on that class of business: Is that right?

A. Yes sir.

Q. Your seventh column is an assumption that the total operating expenses of the State carload business were twice as much per ton per mile as the total operating expenses of the inter-state carload business: The whole of that is an assumption, isn't it?

A. Yes sir.

Mr. HAGERMAN:

Q. What did you assume in figures? is the operating expense?

A. May I answer Mr. Ladd first, please?

That ratio of cost of 2 on State carload to 1 on inter-state carload business, is used because it has been discussed in this case a great deal. I do not mean to say we assume the cost is as much as twice per ton per mile on the State carload business as it is on the inter-state carload business.

Q. In your opinion is it twice as much?

A. No sir.

Mr. HAGERMAN: You say that just to be liberal?

Mr. LADD:

Q. You use that as an assumption for the purposes of this
4122 exhibit?

A. Yes sir, as Mr. Hagerman says, to be liberal.

Q. You use the expression in that seventh paragraph, "total operating expenses of the State carload business are twice as much per ton per mile as the total operating expenses of the inter-state carload business": What did you include there in the expression "total operating expenses"?

A. I include all of the expenses which are designated as "operating expenses."

Mr. HAGERMAN:

Q. Designated in what?

A. In railroad parlance and in the Interstate Commerce Commission's classification.

Mr. LADD:

Q. Please look at the next page of this Exhibit 30, Page 2, where you show the operating expenses of the total inter-state and State business: How much is it?

A. $4,234,884.

Q. Where did you get those figures?

A. Those figures were the original figures submitted by the Com-

plainant in Page 3 of Exhibit 5. These figures of $4,234,884 were subsequently reduced by the Company, in an amended statement filed as page 3 of Exhibit 5-*a*, to $4,203,320.24.

Mr. HAGERMAN:

Q. That would make no substantial difference in your figures?
A. Or about $31,500.

Q. Substantially that would make no difference in your
4123 figures, I say?

A. If we had used the expense as finally reported by the Company, the net earnings shown by Exhibit 30 would have been correspondingly increased.

I might say here, that Exhibits 30 and 31 had been prepared before the operating expenses as reported by the Company had been corrected, and we did not re-prepare the exhibits, as they were in favor of the Company as already prepared.

Mr. HAGERMAN:

Q. What I want to get at, to avoid any confusion, is that that $30,000, if his figures and assumptions are correct, would not make any substantial difference, so as to make it necessary to make the calculations again.

Q. That is safe to say, isn't it, Mr. Ludlam?
A. That is what we thought.
Q. It would not make any substantial difference between the parties, so as to make it necessary to re-figure it all over again.

Mr. LADD: These figures you call the total operating expenses, $4,234,884, are the Complainant's own figures as filed in this first Exhibit 5 of earnings and expenses, aren't they?

A. Yes sir.
Q. And subsequently there was an amended statement filed which reduced those figures 31,000?

A. Some $31,500.
4124 Q. On the freight?
A. Yes sir.

Q. But it would not make very much difference?
A. No sir, and whatever difference it would make would be——
Q. Toward an increase of the net earnings?
A. Yes sir, toward an increase of the net earnings.
Q. But it would not be large enough to make it worth while to stop and figure this over again: Is that the idea?
A. That was our idea.
Q. In the total operating expenses as you use the expression here, you do not include taxes, rentals and interest on the bonded indebtedness, do you?
A. No sir.
Q. You say in regard to the assumption in the seventh paragraph, that the operating expenses of the State carload business were twice those of the inter-state carload business, that that is not an assumption based on your own opinion?
A. That is what I said, yes sir.

Q. But it is assumed there merely for the purposes of seeing what the result would be if the expenses were twice as much: Is that right?

A. Yes sir, what the result would be, even if the expense did amount to twice as much per ton per mile in the case of State as in the case of inter-state carload business.

Q. In the eighth column you have an assumption there that the total operating expenses of the less than carload business,
4125 both inter-state and State, were first three times as much per ton per mile as the total operating expenses of the inter-state carload business: That is an assumption of a similar kind to the one we were last talking about, is it?

A. Yes sir.

Q. Now you have three columns here, with three different headings, in this Exhibit 30: In each one of these columns I understand you proceed upon the basis of the State carload business costing twice as much per ton per mile as the interstate carload business: Is that right?

A. Yes sir.

Q. That is involved in the figures in all three columns?

A. Yes sir.

Q. And the only difference in these three columns is the relative expense of doing the less than carload business?

A. Yes sir.

Q. Which in the first column you assume to be three times; in the second column five times; in the third column seven times; as much per ton per mile, as the inter-state carload business: Is that it?

A. Yes sir.

Q. As far as the amount of gross earnings and operating expenses of the Company in the handling of the freight business in the year 1905, is concerned, or appear in this Exhibit 30, you take them from the Company's own figures which they have furnished in Exhibit 5, don't you?

A. Yes sir.

4126 Q. Except that little change of $31,500 in Exhibit 5-*a*?

A. Yes sir.

Mr. HAGERMAN:

Q. Let me see if I understand that: You confused me a little about it by speaking about the Interstate Commission.

Where you say operating expenses you used the figure we have on Exhibit 5, Page 3, exclusive of taxes and rentals?

A. Yes sir, and which you call "operating expenses."

Mr. LADD:

Q. Mr. Ludlam, I am not going to take you through these figures, of course, but I want to ask you, when you proceed upon the assumption that the operating expenses of State carload business are twice as much per ton per mile as for inter-state carload business, do you figure and pursue the same process of calculation that has been referred to at considerable length here this afternoon, in reference to some other calculations of the same general character?

A. Yes sir.
Q. That is, you multiply something by 2: Is that right?
A. Yes sir.
Q. And then in the other case you multiply it by 3?
A. Yes sir.
Q. And then by 5 and by 7?
A. Yes sir.

4127 Q. That is for the State business: And then you add the inter-state to that and make a larger amount than 100 would be, and then you take the relative per cents of your larger amounts: Is that right?

A. Yes sir, except in this calculation we also include the 3, 5, and 7 times less than carload business.
Q. I know you do.
A. The three items added together, before you get the divisor.
Q. It is the method by which those results were reached?
A. Yes sir.
Q. The same that has been talked about here before, and which you have explained?
A. Yes sir.
Q. Upon these assumptions——
A. May I make a statement there before I get too far away from the operating expenses?
Q. Yes.
A. I want to bring out the fact that the operating expenses which we use here, include all the expenses of the Kansas City terminals.
Q. I know that. You took the operating expenses from the figures they gave us in their statement?
A. Yes sir.
Q. And which it has been shown does include the expenses of the Kansas City terminals?
A. Yes sir.

4128 Q. Upon the basis that the State carload business costs twice, and the less than carload business costs three times as much per ton per mile as the inter-state carload business, what were the net earnings on the State freight business for the year 1905?

A. $466,831.31.
Q. Right at that point, to digress a little, when you speak of less than carload business costing three times as much per ton per mile as inter-state carload business, do you mean all less than carload business, both State and inter-state?
A. Yes sir.
Q. And that is true in all these columns, is it?
A. That same principle is followed in all these columns.
Q. It is upon the assumption that all the less than carload business costs respectively 3, 5 or 7 times as much as the inter-state carload business?
A. Yes sir.
Q. Upon the assumptions contained in the heading of your second column, that the State carload business costs twice, and all the less

than carload business 5 times as much as the inter-state carload business, what were the net earnings upon the State freight business of the Company for the year 1905?

A. $442,268.98.

Q. And in the third column, changing the multiple of 5 to 7, what is the result as to the net State freight earnings?

A. $421,941.55.

Q. What was the ratio in the State freight business of the
4129 operating expenses to gross earnings, upon the assumption mentioned in the heading of the first column?

A. 71.05 per cent.

Q. And in the second column?

A. 73.33 per cent.

Q. And in the third column?

A. 74.55 per cent.

Q. What was the percentage of operating expenses to earnings upon all the freight business of the State, both State and inter-state?

A. Upon the assumption outlined in the first column, it was 74.72 per cent.

Upon the assumption outlined in the second column it was 74.72 per cent.

And the same in the third column.

Of course, the total expense to total earnings would not vary, because your total earnings and total expenses remain the same.

Q. You take the total earnings as shown by the Company's figures and the total expenses as shown by the Company's figures.

A. Yes sir.

Q. So these would not vary?

A. No sir.

Q. Upon the assumption contained in the heading to the first column, what were the net earnings of the Company for that year, upon the inter-state freight business, both carload and less than carload?

4130 A. Upon the assumption outlines in the first column, the net earnings from the total inter-state business were $965,-246.60.

Q. And how much in the second column?

A. $989,808.93.

Q. It is more in the second column than it is in the first column?

A. Yes sir.

Q. Does that arise from the fact that you charged the State businses with five times in the second column and only three times in the first?

A. The less than carload business is five times.

Q. That causes that difference, does it?

A. Yes sir.

Q. How much were the net earnings upon the entire inter-state business, upon the theories mentioned in the heading of the third column?

A. $1,010,136.36.

Q. And that is still larger net earnings upon the inter-state business than shown in the second column?

A. Yes sir.

Q. Why is that?

A. Because we use the multiple of 7 in the case of the less than carload business as compared with the multiple of 5, which is used in the second column.

Q. I see in that last column, under the head of "net earnings of the inter-state less than carload business" these figures in
4131 red ink $124,236.51: What does that mean?

A. That means that if it did cost 7 times as much per ton per mile to do the less than carload business as it cost to do the inter-state carload business, the Company lost during the year 1905, from its inter-state less than carload business, $124,236.31.

Q. Well, now, come down a little further in that third column on the first page: The net earnings of the State less than carload business *are* stated under the same circumstances would have been $160,947.72: How do you account for some net earnings in the State less than carload business and losses in the inter-state less than carload business, although they come in under the same head?

A. That the earnings from the State less than carload business per ton per mile are so greatly in excess of the inter-state less than carload business, that if you apply a ratio of cost that results in a loss from the inter-state less than carload business, you still have a profit left from the State less than carload business.

Q. So while you are sustaining a loss on the inter-state less than carload business and a gain on the State less than carload business, you are applying the same cost per ton per mile to both classes, are you?

A. Yes sir.

Q. And the reason you assign for one resulting in a loss and the other in a gain, is the largely increased revenue in the case of one over the other?

4132 A. The largely increased revenue per ton per mile in the case of the State business.

Q. That Exhibit 30 is based upon the increased cost over the cost of doing inter-state carload business experienced by all the other kinds of business, in every item of expenditure of the operating expenses, isn't it?

A. Yes sir.

The MASTER:

Q. Under item 6 on Page 2 of this Exhibit 30, and in column one, as I understand, you figure out upon these different hypotheses mentioned on the face of the exhibit, that the Company made a net earning on its State freight business for the year 1905 of $466,831.31, allowing that the less than carload business costs twice as much as the carload business?

A. Yes sir.

Q. And allowing that the State business costs——

A. Allowing that the State carload business costs twice as much

as the inter-state carload business; and that all less than carload business costs three times as much as the inter-state carload business.

Q. Both those assumptions are in column one?

A. Yes sir.

Q. That brings you a net gain of profit of 466,000 odd dolars?

A. Yes sir.

Q. Now on the same assumption, so far as carload and less than carload freight is concerned, but allowing that the State freight costs 7 times as much as the inter-state freight, there would

4133 still be a profit of $421,000?

A. No sir.

Q. What is that?

A. That $421,000 is the profit, after allowing that the State carload business costs twice as much per ton per mile as the inter-state carload business costs; and that all of the less than carload business, both State and inter-state, costs 7 times as much per ton per mile as the inter-state carload business costs.

The MASTER: I did not quite gather that from your explanation. You may proceed now Mr. Ladd.

Mr. LADD:

Q. Mr. Ludlam, as an accountant, I would like to have you say whether if these different hypotheses, so far as these results are based on hypotheses at all, are correct, whether the working out of the results is mathematically correct.

A. They are, yes sir.

Q. Now take up Exhibit 31. It purports to be a statement of the gross earnings, operating expenses and net earnings of the Company, for the calendar year 1905, upon certain other bases and assumptions; Now you have statements of fact and also assumptions, in eight paragraphs, just as you had in Exhibit 30.

I will ask you, without going over them, whether the statements of fact and the assumptions contained in the first six paragraphs are the same as they are in Exhibit 30.

A. Yes sir, exactly the same.

4134 Q. Identically the same?

A. Identically the same.

Q. The seventh paragraph of Exhibit 31 assumes, for the purposes of the exhibit, that that portion of the operating expenses known as "conducting transportation", was 2 times or 5 times as much per ton per mile as the same portion of the expenses was on the inter-state carload business?

A. Yes sir.

Q. By that expression "conducting transportation", do you refer back to Complainant's Exhibit 5-*a* on the page on that exhibit which deals with expenses?

A. Yes sir.

Q. I should like to have you explain, in the first place, what expenses you include in this subdivision of "conducting transportation".

A. I include all the expenses that are grouped in the Company's statement of operating expenses under the heading of "conducting transportation".

Q. Where did you find that?

A. I found the statement of the items included in operating expenses, on page 47 of the Annual Report of the Company for the year ending June 30, 1906.

Q. Will you please look (I want to know a little more definitely what you include in there) at Page 5 of Exhibit 5-*a*: Is that the page which gives the expenses?

A. Yes sir, that is the page which gives the expenses.

Q. Look down the latter half of the page.

4135 A. January 1st to December 31st, 1905?

Q. Yes, the expenses for the year 1905. Under the head of "conducting transportation" you include the conducting transportation as it is mentioned here on this page 5 of Exhibit 5-*a*?

A. I included it as originally given, not as mentioned on this page of Exhibit 5-*a*. It was corrected on that exhibit.

Q. Have you the original Exhibit 5, as there appears no change there. You included conducting transportation and if any change was made it is not material here?

A. I included the item conducting transportation.

Q. Loss and damage?

A. Yes.

Q. Injuries to persons?

A. Yes.

Q. Agencies and advertising?

A. Yes.

Q. You did not include general expenses?

A. No sir.

Q. In this exhibit you do not allow any additional charge per ton mile to the State freight of any part of the operating expenses, except those incident to conducting transportation, as you have just defined that term: Is that right?

A. Yes sir.

Q. All the rest of the expense you assume that the State traffic should bear in its own proportion, with all the rest of the traffic: Is that right?

4136 A. Yes sir.

Q. In other words, to illustrate: You do not charge the State traffic with any extra cost of maintenance of way and structures and maintenance of equipment?

A. No sir, nor general expenses.

Q. Now your eighth assumption in Exhibit 31 is that of the total operating expenses in connection with the less than carload business, both State and inter-state, the portion known as conducting transportation was 3, 5 or 15 times respectively, per ton per mile, as on the inter-state business—you mean inter-state carload business?

A. 3, 5, 7 or 15 times as much.

Q. I see that it says on this exhibit, the very last words in that

paragraph, "inter-state business:" It should be "inter-state carload business"?

A. Yes sir.

Q. Put that in on that exhibit.

NOTE.—The word carload is inserted in the place indicated on the exhibit.

A. And I would also like to insert between 5 and 15 the number 7. It should be "3, 5, 7 or 15 times."

Q. Right at this point I will ask you whether in your opinion the expenses of the State carload business incidental to conducting transportation, as you have defined them, are twice as much per ton per mile as the inter-state carload business?

A. I do not think they are.

4137 Q. This is merely an assumption, then, for the purpose of showing what the result would be if they were that much greater?

A. Even if they were that much greater.

Q. Is it your opinion that the expenses of conducting transportation of less than carload business, State and inter-state, is three times as much as that of handling the inter-state carload business?

A. Yes sir, I should think that portion of the operating expenses in handling less than carload business would be increased at least three times over the cost of inter-state carload business.

Q. Three times as much per ton mile?

A. Fully that much. Somewhere between 3 and 5, if I were expressing an opinion.

The MASTER:

Q. What is that?

A. I should estimate that portion of the operating expenses known as "conducting transportation" would be somewhere between 3 to 5 times as much for all less than carload freight, both State and inter-state, as the cost of the same portion of the operating expenses on the inter-state carload business.

Mr. LADD:

Q. Per ton per mile?

A. Per ton per mile.

Q. Assuming as you do in your first column of figures, that that part of the operating expenses is twice as much per ton per mile on State carloads as on inter-state carload business, and on

4138 all the less than carload business three times as much per ton per mile as the inter-state carload business, what were the net earnings in 1905, of the Company on its State freight business?

A. $612,087.84.

Q. Under the second column, on the assumption that the less than carload business costs 5 times as much per ton per mile as the inter-state carload business, what would have been the net earnings of the Company on the State freight business during that year?

A. $584,561.09.

Q. And in the third column, substituting 7 times for 5, what would the net earnings be?

A. $560,845.74.

Q. The fourth column is on the basis that the State carload business, so far as conducting transportation is concerned, costs 5 times as much, and all the less than carload business 15 times as much per ton per mile as the inter-state carload business: What would be the earnings on the State business on that hypothesis?

A. $53,930.12.

Q. Under your fourth column I see opposite the expression "net earnings on the interstate less than carload business," figures in red: What does that mean? That there would be a loss?

A. That means that if that portion of the operating ex-
4139 penses known as "conducting transportation" were 5 times as much per ton per mile on the State carload business as on the inter-state carload business: And 15 times as much on all less than carload business as on the inter-state carload business, the Company would have suffered a loss on its inter-state less than carload business, during the year 1905, of $223,332.79.

Q. On the same assumption how would it have come out on its State less than carload business?

A. It would still have made money on its State carload business, namely $109,705.62.

Q. If those figures are correct what causes the loss in one case and the profit in the other, in your opinion?

A. The rates on State less than carload business are so greatly in excess of the rates on the inter-state less than carload business, that even if the ratio of cost of all of the less than carload business was increased to an absurd extent, it would still leave a profit on the State business; whereas, it would show a loss on the inter-state business.

Q. How would the Company have come out on that last hypothesis, on their State carload business?

A. They would have lost $55,775.50 during the year 1905.

Q. Upon the assumptions stated in the heading to your
4140 first column, what would have been the net earnings of the Company in the State, on its inter-state and State business together?

A. $1,432,077.91.

Q. And so far as its net earnings on its entire business are concerned, that result would have continued under all the hypotheses which you have predicated here?

A. Yes, sir. The total net earnings as well as the total gross earnings. And the total operating expenses in each case agrees with the Company's figures.

Q. But these hypotheses which you have assumed here do not change the total amount of operating expenses or the total amount of the earnings, as originally reported by the Company?

A. No, sir.

Q. In this Exhibit 31 you have taken the same figures furnished you by the Company, and the same figures and percentages which

you arrived at by an examination of the Company's business for the month of October, 1905, and you have in addition to that made some assumptions of your own: Now taking those altogether, I will ask you as an accountant, if the results which have been shown here have been ascertained by the application of the correct mathematical principles in arithmetic.

A. Yes, sir, I believe so.

The MASTER:

Q. The net earnings, which you figure there, do not take into account at all, one way or the other, the matter of fixed charges and taxes, as I understand.

A. No, sir, they include all the operating expenses.

4141 Mr. LADD:

Q. I wish now to ask a few questions about Exhibit 8, which is already in evidence.

Exhibit 8 is headed "Amount of Intra-state and Interstate Carload Freight Handled at Stations on the Missouri Pacific Railway Named Hereon:" That is the one which has often been referred to as the 88 stations' exhibit, isn't it?

A. Yes sir, the 88 stations' carload exhibit.

Q. That examination is confined to the month of October, 1905. It purports to show the total number of cars employed in the state and interstate business, for handling the freight at those stations: there were sixty-one percent and a fraction of state cars, and thirty eight per cent and a fraction of cars carrying interstate freight. Under the head of "Empty cars to supply deficiencies," there were said to be 77 per cent state and 23 per cent interstate.

What comments or criticism have you to make on that statement?

In the first place, I will ask you if it purports to show any mileage?

A. No sir, it does not show any mileage, as I understand it.

Q. There is no intimation there how far those empty cars, or loaded cars either, for that matter, may have been hauled; is that correct?

A. Yes sir. It relates only to the number of cars, and not to the mileage: the number of cars required to meet the deficiency
4142 was determined, as I understand it, by subtracting from the number of loaded cars into a station the number of loaded cars out of the station. That is, the cars in and out being separated between state and interstate; and the difference between the number of cars that went into a station loaded with state freight, and the number of cars going out of a station loaded with state freight, is shown to be the deficiency in the number of cars required at each station on this list.

Q. The deficiency of cars on account of the state business,—the percentage of them is larger than the percentage of loaded cars used in the state business; that is what that purports to show? There is 77 per cent of empties in the state business?

A. 77 per cent of the total empty cars put down here, on this ex-

hibit, as required to supply the deficiency, are apportioned to the state business.

Q. And what is the percentage of the loaded cars in the state business?

A. 61.8 per cent.

Mr. HAGERMAN:

Q. That is to say that of the loaded cars, state or interstate, the state had 61 per cent?

A. The state had 61 per cent of the total loaded cars into the stations.

Mr. LADD:

Q. And the state traffic is charged with 77 per cent of the empty traffic?

A. Of the number of empty cars required to supply the deficiency, as shown in the third column,—yes sir.

Q. I will ask you if that statement, as made out, is re-
4143 liable, and if not please tell the Court why not?

A. I do not think it is an indication of the empties required to handle the state business, or the empties required to handle interstate business, for several reasons: First, it presupposes that every car that went out loaded with state freight must have gone in loaded with state freight; whereas, there is a constant interchange of cars.

If a car went into a station this morning loaded with interstate freight, and there was a carload of state freight ready to go out, they would load that state freight into that interstate car.

Another thing, it presupposes that the car went out the same day it went in; whereas, those ten cars may have gone in on the first, second or third days of the month, and the nine cars out may have gone out on the last two or three days of the month. In that case they could not have used any of the ten cars coming in to supply the deficiency of the nine going out. They would not let them stay at that station all through the month.

In the next place, it presupposes that interstate shipments are loaded in any car available, as readily as state shipments, which is not true.

If a road has shipments to make over its own lines, and particularly a shipment within the state of Missouri, it would take the first or nearest empty car it could lay its hands on; whereas, the selection of cars for the interstate business depends, to a large extent, on the
destination of the freight. That is, if there was an Atchison,
4144 Topeka & Santa Fe empty car at Lincoln, and they had a carload of freight at Lincoln to go to New York, they would not take that Santa Fe car. On the other hand, if they had a carload of state freight to go from Lincoln to Jefferson City, they would take that Santa Fe car.

Q. Why wouldn't they take that Santa Fe car to go to New York?

A. They would not take it off their own line, unless they delivered it in the direction of the company to which the car belonged.

Q. Why not?

A. Because it is against the rules and agreements of the railroad companies. For instance, the Missouri Pacific would not receive a Santa Fe car on its tracks, empty it, and reload it destined to a point east.

Mr. HAGERMAN: That is what they have been doing, which has been causing this car famine.

A. No sir, what they have been doing is getting foreign cars and keeping them on their own road to do their local business.

On the other hand, if they had a shipment at Lincoln to go to Denver, they would not load it into a Pennsylvania car to go to Denver, because that would be against the agreements of the railroads. They would have to hold the freight until they found a Santa Fe car, or a Southern Pacific car, or some car that would be going towards its home in going to Denver.

The result is, that while they might have to haul a car ten or fifteen miles for a state shipment, they might have to haul
4145 a car one hundred or one hundred and twenty-five miles for an interstate shipment.

Therefore, the amount of mileage apportionable to state and interstate business would not conform at all to the amount of state or interstate business. As long as the shipment is on their own road, they may use the first car they can put their hands on. But if it is going off their road, they must stop and consider whose car it is, and in what direction it is going.

That makes a great difference in the empty car mileage, which is always greater in the case of interchange business than in the case of local business. I use the word "local" there in the sense of local to the company to whose business you are referring.

Q. Suppose it could be gathered from that statement, as I understand you to say you think it cannot, that the percentage of deficiency of cars for the handling of the state business was larger than the normal proportion measured by the number of loaded cars of both classes of business, does that throw any light on the subject, without knowing how far these empty cars have had to be hauled?

A. Absolutely none.

Q. You spoke about cars going into a station about the first of the month, loaded; you said nine cars on the first of the month?

A. Yes sir.

Q. And an equal number of cars going out loaded during the latter part of the month?

A. Yes sir.

4146 Q. That might be reversed, and be just the other way?

A. Yes, sir, it might apply either way. And that would tend to show that the mere difference between the number of cars in and the number of cars out, would mean nothing unless you took it day by day. Where you cover a whole month it means nothing at all, because they do not allow cars to lie idle at these local stations. They keep them moving around, according to the demand, and where there is business. In other words, they do not attempt to supply the local stations with empty cars as they are needed, by storing empty cars at those local stations.

Q. On the chance of their having some business for them?
A. No, sir.

Q. Mr. Ludlam, on page one of the original Exhibit 5, which is for 1905, I take it, this appears: "Total expense of local freight traffic, $1,926,714.19;" and that refers to a note at the foot reading, "The expense of handling local freight is arrived at by dividing the total freight expense on per cents based on gross earnings, after adding fifty per cent to the local earnings on account of the extra cost of handling local business as compared with interstate business." What does that mean? Does that have any reference to the revenue or to the earnings?

A. Yes, sir. That means that they have estimated the expense as being fifty per cent. more in proportion to revenue. That is, assuming that the revenue on the State business is more than twice as much per ton per mile as it is shown to be, by Exhibit 19,—I mean twice as much per ton per mile on the State business as it is on the interstate business,—then if they took the same propo-tion
4147 of earnings in the case of State freight that they take in the case of interstate freight, why then they would be charging twice as much per ton per mile, over twice as much per ton per mile on State freight as on interstate. But when they add fifty per cent. to that expense, then they are charging over three times as much per ton per mile as the cost of the State business, as they are charging for the cost of the interstate business.

Q. For instance, suppose it were said that the State business cost three times as much in proportion to revenue as the interstate business, and it appeared that the revenue from the State business was twice as much per ton per mile as from the interstate business, what does that mean? Three times as much in proportion to revenue? How much more per ton per mile under such circumstances as those?

A. Six times per ton per mile.

Mr. HAGERMAN:

Q. As I understood you, the way you figure out the increased revenue per ton per mile, according to your Exhibit 19, every time we say it costs twice as much to do the State as the interstate business, you just offset it by the increased revenues; isn't that the way your figures run?

A. That would be the application that would be made; if the revenue was twice as much, and you figured the percentage of revenue to expense, you would get the same ratio.

Q. We could not get even with you until we used the multiple of two, according to your theory?

A. You are twice even with us to start out with. You double your expenses on the State business, right on the start, when you take the same ratio of expense to earnings.

4148 Q. What I had running through my mind was that your figures, as you figure on your assumptions, and on your Exhibit 19, upon your theory we would have to say it cost practically twice as much to do the State business as to do the interstate, before

we get even with the increased revenue, according to your own theory.

A. No, sir, you do say it costs twice as much, when you take the same ratio of expense.

What you should do, is to divide your expenses, to get the same ratio. You double it; and when you increase it as you have in this case, fifty per cent, you make it three times. If you increase it three times, you make it six times, and if you increase it six times, you make it twelve times.

Q. Do you mean that if you make it six times on the ton mile basis, that is the equivalent of three times as much on the revenue basis; is that the way it works out?

A. Yes, sir. If the revenue on the State business was just double what it was on the interstate business per ton per mile. But, as a matter of fact, the revenue per ton per mile was more than double.

Q. It was just about double, according to your figures on Exhibit 19?

A. A little more than double.

Q. We were calling it double for practical purposes. It was running through my mind that your theory was practically that way.

A. I would like to make that very clear,—and I do not think I can make it too clear,—that the revenue has no possible rela-
4149 tion to the cost. It costs the company just as much to haul a ton of sugar a mile in Missouri, whether that sugar originates in St. Louis or whether it originates in New York. And the revenue in Missouri is twice as much for hauling it that mile as the revenue on the sugar that originates in New York that is hauled one mile in Missouri. But the cost of actually hauling that ton of sugar a mile is the same in both cases. And the mere fact that the revenue is twice as much in one case as it is in the other case, does not in any way affect the cost per ton.

Q. That is to say, in ascertaining the cost, the question of revenue should not enter into it, in your judgment?

A. Absolutely not.

Q. The cost has nothing to do with the revenue?

A. They are two separate and distinct factors. Cost has no more relation to revenue than any two things that are entirely separate and distinct.

Q. So if it actually costs, on any theory you figure it out, three times as much to do the State business as to do the interstate business, it should not be considered so far as it affects the question of revenue?

A. The revenue may be ten times as much, but they have no relation to each other.

Q. The cost must be determined as something separate and distinct and apart from the revenue?

A. Unquestionably. I would like to illustrate that by a little example I have here.

4150 If you take two tons of freight, each one moving a mile, and one of those tons is State freight, and for the purposes of illustration we will assume it earned ten cents for moving that

mile. The other ton is a ton of interstate freight, which was moved one mile, and we will assume that it earned five cents for moving that mile. That would make your total earnings fifteen cents. The expense, we will assume, for hauling those two tons one mile, both tons of freight being of the same class, would cost identically the same, say ten cents. If you take that expense of ten cents, however, and divide it on the basis of revenue, you would apportion two-thirds of the total expense against your ton of State freight, or six and two-thirds cents, because the State freight earned two-thirds of the total revenue of fifteen cents. And if the total expense was ten cents, and you apportioned it on the basis of revenue you would apportion two-thirds of the expense to the State business, which would make the expense for hauling that ton of State freight six and two-thirds cents, as compared with the expense of hauling that ton of interstate freight, three and one-third cents.

Now there you get a condition right away where it costs you twice as much to move that ton of State freight a mile as it costs you to move a ton of interstate freight a mile although they both moved under the same conditions exactly, possibly in the same car, and over the same track.

That is the result of apportioning it on the basis of revenue.

Now if you take it on the three-times basis, that is three
4151 times in proportion to revenue, the State freight earnings being ten cents, and the interstate earnings five cents, you would multiply your State earnings by three, which would give you thirty for the State as against — for the interstate. That worked out to a conclusion would result in that ton of State freight costing you 8 4/7 cents for moving it a mile, as compared with a cost of 1 3/7 cents for moving another ton of exactly the same kind of freight, perhaps in the same car, a mile. The expense in the case of the State freight, 8 4/7 cents, would be exactly six times the expense of the interstate, which figures out 1 3/7 cents.

Now then, if you go still further and assume it costs six times in proportion to revenue, the State revenue being still ten cents, multiplying that by six gives you sixty. The interstate revenue remains the same, five cents. If you apportion your expenses on that basis, the total expense of moving those two tons one mile each, ten cents, you would have to apportion 12/13 to that ton of State; or, worked out, the ton of State freight would cost 9 3/13 cents for hauling it a mile; as compared with a ton of interstate freight, costing 10/13 cents for hauling it a mile; although it may move in the same car, and is the same class of freight, and moves over the same track.

In that case, where you say the expense is six times in proportion to revenue, you are apportioning to the State expenses 12/13 of the total cost of moving those two tons one mile.

And that is not an exaggerated case, because I start out with a
revenue of ten cents for the ton mile of State freight as com-
4152 pared with a revenue of five cents for a ton mile of interstate freight. That would make the State revenue just twice the interstate revenue. Exhibit 19 shows that taking all the State freight into consideration, and all the interstate freight into con-

sideration, the company received more than twice as much per ton per mile for the State freight as it did for the interstate freight.

Mr. LADD:

Q. Assuming that the revenue for performing certain services for State freight is twice as much as the revenue for performing the same service in the case of interstate freight, what does it mean to say that the cost of handling state freight is seven times as much as the cost of handling interstate freight in proportion to revenue?

A. It means that you are assuming that the cost of moving the State freight is fourteen times as much per ton per mile as for moving the interstate freight.

And the point I would like to illustrate is, that where the service is the same, there can be no difference in the cost. The point of origin of the freight can have no effect on the cost as I see it, although where the service is the same, the revenue is not the same by any means.

Q. Take a carload of salt and a carload of sugar, both in barrels. Ordinarily, which would bear the higher rate for transportation?

A. The sugar would run from double to more than double as much as the salt, for the same distance, and the same weight.

Q. Suppose it is twice as much, and there is the same weight in the car, and that it is in barrels, and although both carloads
4153 are shipped from St. Louis to Jefferson City, and go into the same train,—is that an illustration of the proposition that the revenue received has no relation to the cost of the service?

A. Yes, sir.

Q. The company would get twice as much for hauling that carload of sugar as it would for hauling that carload of salt?

A. Yes, sir.

Q. And the expense is exactly the same in both cases?

A. Yes, sir, and I would like to say, before I get away from that, I should like to qualify that by saying that when I say the expenses are exactly the same, I mean that the only possible difference in the cost is the liability which the company assumes for the value of the two shipments, the sugar being more valuable than the salt. But the total loss and damage paid by the company are such a very small per cent of their gross earnings, that when you come to consider the cost per ton per mile, it almost vanishes.

Mr. HAGERMAN: It would facilitate matters if upon Exhibits 30 and 31 that ninth clause could be carried out in percentages.

At this point, the hour of 5:30 having arrived, the further hearing of proceedings herein, was adjourned until Saturday, February 9, 1907, then to be resumed at ten o'clock in the forenoon.

4154 ST. LOUIS, *February 9th*, 1907.

Met, pursuant to adjournment as above on Saturday, February 9th, 1907, at ten o'clock in the forenoon, in the Federal Building, in the City of St. Louis.

Present: Hon. F. L. Schofield, Special Master.

Mr. Frank Hagerman appeared in behalf of the Complainant.

Messrs. S. B. Ladd and John Kennish appeared in behalf of the Defendants.

The following proceedings were had:

Direct examination of C. S. LUDLAM, continued.

By Mr. LADD:

Q. Mr. Ludlam, from your investigations which you have been carrying on in this case, and the information you have gained from your connection with this case, and your experience such as it may be outside of this case, can you make an estimate of the average terminal expense per ton of freight in Missouri?

A. Yes sir. I should estimate the terminal expenses per ton as somewhere from seven to ten cents a ton; and in that sense, I mean the cost of the terminals where the freight originates, or where it terminates.

Q. That is, one terminal?

A. Yes sir, that is one terminal; from seven to ten cents a ton at each originating and terminating terminal.

Q. Can you refer to any figure or figures, or any evidence in this case already introduced, which in your opinion justifies you
4155 in that estimate?

A. Exhibit 26, being Form 1940, sheet 2, the Missouri Pacific Railway Company's statement of the analysis of statement of superintendents' operation, shows that the average cost per ton, including company material, for station and yard service, during the year ending June 30, 1906, amounted to 17.92 cents.

Of course, that figure would include the expense of all intermediate terminals, where a ton of freight used an intermediate terminal.

The average haul of the revenue freight on the Missouri Pacific system, during the year ending June 30, 1906, is shown on page 48 of the Annual Report of the Company.

Q. 17.92 cents is the average expense per ton for station and yard service, of all of the freight handled on the Missouri Pacific system, which includes the Iron Mountain and the Central Branch; that is right, is it?

A. Yes sir.

Q. Does that tonnage include the freight which both originated and terminated on that system?

A. Yes sir.

Q. So that there is some freight included in that computation—we do not know how much—which has the originating and terminating terminal on that system: is that right?

A. Yes sir.

Mr. HAGERMAN:

Q. And some that has neither. I suppose it includes all classes, both Class 1 and Class 2 of interstate, and also state business?

A. Yes sir.

4156 Mr. LADD:

Q. You were going on to speak, when I interrupted you, about intermediate terminals: what do you mean by that?

A. The use of the terminal which the through freight would have. For instance, a car of freight originating at St. Louis on the Missouri Pacific, and destined to Pueblo, Colo., on the Missouri Pacific, would have only one originating terminal, St. Louis; and one terminating terminal, Pueblo, but it would probably have seven or eight intermediate terminals.

Q. Just what do you mean by "intermediate terminal"?

A. In the case of the ton I speak of, there would be an intermediate terminal in Missouri, either at Jefferson City or at Sedalia. At one or the other of those points, the train would stop and be inspected, the boxes oiled and examined, the car switched. Then at Kansas City the same thing would happen again. At all these large terminals, where they keep a number of switch engines, a large part of the time of those switch engines, the expense of the yard service, is devoted to handling the through business; breaking up trains, switching cars into new trains, inspecting cars, oiling them, and so forth.

Q. Take a ton of freight originating at St. Louis on the Missouri Pacific Railway, destined to Pueblo: would there be any of these intermediate terminals, as you call them, between Kansas City and Pueblo?

A. Yes sir.

Q. Where these services would be performed?

A. Yes sir; the distance, as I recall it, from Kansas City to Pueblo, is 624 miles; and there would probably be a terminal about

4157 every one hundred miles.

Q. The expense, whatever is incurred at these intermediate terminals, is nothing like what it is at the originating or terminating terminal?

A. If I made an estimate, I should estimate that on the average the expense of the intermediate terminal would run somewhere to 25 to 33 1/3 per cent of the expense of the originating or terminating terminal; that is, somewhere from one-fourth to one-third as much, on the average.

Q. Your estimate is from seven to ten cents at each originating terminal, for each ton?

A. At each originating or terminating terminal for each ton.

Q. Seven to ten cents for each ton?

A. Yes sir.

Q. Those figures, 17.92 cents, include station service and yard service. It is already in evidence in the case what is meant by "station service" and "yard service", and I think it is shown by one of those Missouri Pacific system sheets of what items those are composed?

A. Exhibit 27 shows in detail the items included.

Q. Mr. Ludlam, how much is the average revenue per ton of freight hauled, which all the railroads in the United States receive for the handling thereof?

A. $1.07 per ton, as shown by page 99 of the Statistical Report of the Interstate Commerce Commission for the year ending June 30, 1904.

Q. Are those the exact figures, $1.07, or is there a small fraction there?

4158 A. These are the exact figures, as I recall it. But there may be a small fraction.

Q. There is a small fraction.

A. Well, there may be a small fraction.

Q. Just what does that mean?

A. That means that each road received on the average during the year ending June 30, 1904,—each road operating in the United States which made a report to the United States Interstate Commerce Commission, received on the average $1.07 for each ton of freight which it handled.

For instance, a ton of freight hauled from Cincinnati to St. Louis by the Baltimore & Ohio Southwestern would be counted as a ton of freight on that road; and if that same ton of freight continued over the Missouri Pacific from St. Louis to Kansas City, it would be also counted as a ton of freight on the Missouri Pacific Railway.

Q. Do you mean that each road received on the average $1.07, or that all the roads in the United States put together received on the average $1.07 for each ton handled.

A. Putting all the roads in the United States together, there was $1.07 received for each ton of freight handled by all the roads.

Q. That is to say, one road taken by itself might have received more than $1.07 for each ton of freight, and another road taken by itself might have received less than $1.07 for each ton of freight; but putting them all together, the average is $1.07; is that what it means?

A. Yes, sir.

4159 Q. You have spoken of ton of freight moving from Cincinnati to St. Louis over one road and from there being transported by another road to Kansas City, and you say that ton of freight would count as two tons in making this computation of the Interstate Commerce Commission; is that right?

A. Yes, sir.

The MASTER:

Q. Each ton of freight, although it might be handled by two or three roads, would be counted by each road as a ton, although it might be the identical ton handled by the other road?

A. Yes, sir.

Mr. LADD:

Q. That is independent of the haul, also?

A. Yes, sir.

Q. Take the Atchison, Topeka & Santa Fe Railroad, which has a line of roads several thousand miles in length; say it hauled a ton of freight from Chicago to Los Angeles, California; that would be counted as one ton by the Santa Fe Railroad?

A. Yes, sir.

Q. If it was hauled by the Erie Road from New York to Chicago, and that same ton of freight was transferred to the Santa Fe Road and carried to Los Angeles, California, it would count as one ton for each one of these roads, would it?

A. Yes, sir.

Q. I wish you would take a paper, which we will offer in evidence as Exhibit 25; did you prepare that paper?

4160 A. Yes, sir.

Mr. LADD: We will offer in evidence the paper referred to as Defendant's Exhibit 35.

Defendant's Exhibit 35 is in the words and figures following, to-wit:

4161 Q. Where did you get the figures in the first column of Exhibit 35, under the head of "amounts"?

A. From Exhibit 27.

Q. Those are system figures?

A. Yes, sir.

Q. Where did you get the figures in the second column, under the heading of "per cent."?

A. We made those figures.

Q. Those you worked out for yourself?

A. Yes, sir.

Q. You think they are accurate?

A. They are the per cents which the amounts in the first column represent, and they are correct.

Q. Of the total operating expenses?

A. Yes, sir.

Q. In respect to the expense of doing the State business as compared with the interstate business, what, for the purposes of this exhibit, is assumed to be the proportion?

A. It is assumed that the station service, yard service, train service, and the engine service, each cost twice as much per ton per mile for State business as for interstate business.

Q When you speak of State business there you mean State business of all kinds, both carload and less than carload, and the same is true in respect of the interstate business, is it?

A. Yes, sir.

Q. Go on down to the second group of figures on that state-

4162 ment: the one headed "ratio" and the other "State" and the next one "interstate". That is, that first column consists of percentages?

A. Yes, sir.

Q. All three columns are percentages?

A. Yes, sir. The percentages shown in the first column are the percentages shown above, brought down.

Mr. HAGERMAN:

Q. In the first column the percentages are exactly the same as they are in the second column of the first list of figures?

A. Yes, sir.

Q. But not in the same order?

A. No, sir.

Mr. LADD:

Q. The second column of percentages remains the same as the second column of percentages, with the exception of those which refer to station service, yard service, train service, and engine service; is that right?

A. That is correct.

Q. And you have put them upon the basis of twice as much for State as for interstate; is that right?

A. Yes, sir, twice as much per ton per mile for State as for interstate.

Mr. HAGERMAN:

Q. The designation is made where it is figured at twice as much?

A. Yes, sir.

Q. They are not all figured out twice: take maintenance of way and structures, for instance.

4163 Mr. LADD: That remains the same. He does not make any change in that.

Mr. HAGERMAN: So the first column, under the head of "State" and the second column under the head of "interstate" are prepared upon the basis that as to train service, yard service, station service and engine service, the State costs twice as much per ton per mile as the interstate, and as to the other items of expenditure, the State costs the same as the interstate; is that right?

A. Yes, sir.

Q. When you reach the figures in the second column, for instance, 9.92, 12.37, 11.96, 26.21, the State's percentages for those four different branches of the service, do you reach them in the same way you have reached results before that have been talked about, that is, multiplying something by two, and in reading the total number above one hundred in that way?

A. Yes, sir.

Q. So that your total percentages, the aggregate of your total percentages, in the second and third columns, instead of being 100 is how much?

A. In the second column the aggregate is oncreased from 100 to 115.11; in the third column, it is decreased from 100 to 84.00.

Q. What is the sum of those two percentages, instead of being 100?

A. The aggregate of those two percentages is 200, because I
4164 take two tons, for the purpose of this calculation, one state and one interstate.

Q. Well?

A. Consequently, of that 200, there is 115.11/200 apportioned to State, or 57.55 per cent., and 84.89/200 apportioned to interstate, or 43.45 per cent.

Q. Upon those calculations how much greater is the State's proportion of the total operating expenses, than the interstate's proportion?

A. It is 35.57 per cent per ton per mile.

Q. 35.57 per cent of the total operating expenses?

A. No, sir. It is 35.57 per cent per ton per mile more than the cost of the interstate business per ton per mile.

Q. I understand; that is the State's percentage of all the operating expenses, not only those you doubled by all the rest; it is 35.57 per cent greater than the interstate's proportion of the total operating expenses.

Mr. HAGERMAN:

Q. Per ton per mile?

A. Yes, sir.

Mr. LADD: Per ton per mile, of course.

Mr. HAGERMAN: That is very different from your question.

But we understand what you are driving at: you get this up on the theory, first, that this Exhibit 27, Form 1941, is a basis applicable to this Missouri Pacific situation; then you eliminate from it such items as maintenance of way and structures, upon the theory that there could not be any increased expense on those items?

4165 A. I eliminate any increase, but not the items.

Q. And when you get through with it, it works out that upon the whole, taking everything into consideration, every operating expense, including that which ought to be increased for State business over interstate, there is, as a whole, 35.57 per cent greater cost per ton per mile in doing the State business than the interstate?

A. Yes, sir.

Mr. LADD:

Q. In your opinion, does the station service cost twice as much per ton per mile on State as on interstate traffic?

A. I should say on the average it would. I think that would be a very fair ratio of increase, for the reason that the interstate business, on the average, moves in Missouri twice as far as the State business. There would not be a great deal of difference per ton at the station. I think the time, on the average, required to bill an interstate shipment is greater than the time required to bill a State shipment, because as a general proposition, the clerical force at the station is more familiar with the State rates than they are with the interstate rates. And sometimes the interstate rates are complicated, and they have to spend some time figuring them out, and frequently have to communicate with the home office. But that would be such a small proportion of the whole, that, although as to that proportion I think the expense would be greater on the interstate than on the State, I think it is very fair to say, as a whole, that the station service for State business would cost twice as much per ton per mile as the station service for the interstate.

4166 Q. Take the yard service; in your opinion, does the state yard service cost twice as much per ton per mile as the interstate?

A. No, sir, in my opinion the yard service would not cost twice as much per ton per mile, for the reason that the interstate freight, on the average, has more use of the intermediate terminals.

Q. In your opinion, then, that is a safe estimate?
A. Yes, sir.
Q. Take train service: does that, in your opinion, cost twice as much per ton per mile for State as it does for interstate business?
A. No, sir, it does not.
Q. Why?
A. Because, in my opinion, the only increase apportionable to train service, applicable to State as compared with interstate business, would be the same as that proportion of the State business which was moved on the local trains in excess of the proportion of the State tonnage to the total tonnage of the State.
Q. What items are included in train service, according to the Missouri Pacific Railway Company's distribution?
A. Exhibit 27 shows that the train service includes: Regular time of train men; over and constructive time of train men; oiling cars; and other supplies.
Q. Take the matter of engine service: in your opinion, does the engine service cost twice as much per ton per mile in the case of State freight as it does in the case of interstate freight?
4167 A. No, sir, it does not, for exactly the same reason as stated in the case of train service.

Mr. HAGERMAN:

Q. Why did you put the twice in there, if that is so?
A. To be——
Q. Just to be liberal?
A. Not to be liberal, but to show the maximum.
Q. You are not putting it in there as an expression of your opinion, but just for purposes of illustration?
A. To cover what would be what we consider the maximum.

Mr. LADD:

Q. Have you prepared another statement, which I will offer in evidence as Exhibit 36?
A. Yes, sir.

Mr. LADD: I will offer in evidence the paper referred to as "Defendant's Exhibit No. 26."
Defendant's Exhibit No. 36 is in words and figures following, to-wit:

4168 Mr. HAGERMAN:

Q. As I understand it, in Exhibit 36 you have done the same work as in Exhibit 35, but you do not use the same multiple?
A. We attempt to apportion it as shown by the Exhibits in this case.

Mr. HAGERMAN: I would like to have Mr. Ludlam give, in a general way, how it supplements and fits in with Exhibit 25.

Mr. LADD:

Q. Explain as briefly as may be, the theory upon which you proceeded in the preparation of Exhibit 35, and how it differs from any other exhibit.

A. Exhibit 36 differs from Exhibit 35 in that in Exhibit 35 it is assumed that the train and engine service cost twice as much per ton per mile in the case of the State business as in the case of the interstate business.

Exhibit 36 attempts to apportion the exact excess of that train and engine service, which is applicable to the State business, as compared with the interstate business, based upon the tonnage of the two classes of trains, as shown by Exhibits 14-A and 15.

Mr. HAGERMAN:

Q. With the result that in this exhibit, as to train service and engine service, instead of showing two times as much, it is practically 1.20 times as much?

A. Yes, sir.

Mr. LADD:

Q. You spoke about the excess of State freight, in the way of local trains, didn't you?

A. Yes, sir.

Q. What did you find, or calculate for the purposes of this exhibit, that the excess of the State freight in the local
4169 trains is over the interstate freight? That is, excess over and above its proper proportion?

A. 4.67 per cent of the State business was carried on local or way trains than should have been carried on these trains.

Q. How much should have been carried? How do you get at what should have been carried on them? I do not ask for the figures or percentages.

A. We found out the per cent of the tonnage carried by the local trains of the total tonnage. Then we found out what number of tons that per cent would be of the total State tonnage. Then we took the division of the tonnage carried by the local trains, between State and interstate freight, and so determined what percentage of excess State business the local or way trains carried over what they should have carried, if they had carried their normal proportion.

By "normal proportion" I mean if the loading of the local trains, and the through trains had been divided on exactly the same basis as the total volume of the State tonnage is divided between State and interstate.

Q. Now let me see if I understand that. For the purpose of illustration, suppose the total State tonnage is twenty-five per cent, and the total interstate tonnage is seventy-five per cent; the State tonnage is one-fourth, and the interstate tonnage three-fourths of the total tonnage?

A. Yes, sir.

Q. Do you mean to say that if the freight carried on these local or way trains had been one-fourth State and three-fourths
4170 interstate, that there should be no extra expense charged to the State freight?

A. Yes, sir.

Q. That is it, is it?

A. Yes, sir.

Q. But because, as a matter of fact, the amount of State freight carried on these trains is more than one-fourth, and the amount of interstate is less than three-fourths, therefore the State traffic should be charged with an additional cost on account of this excess; is that it?

A. Yes, sir.

Q. What did you find that excess to be, in per cents?

A. We found that the local trains carried 4.67 per cent more of the State business than they should have carried.

Q. Look at the first page of this Exhibit 36, and the second paragraph below the first bunch of figures: how many local trains do you have there as the basis of your assumption?

A. One local train a day each way between St. Louis and Kansas City.

Q. In the next paragraph, how many through trains did you take as the basis?

A. Six through trains a day each way.

Q. Why did you assume that number of local and through trains respectively, as a basis? What authority have you for that?

A. The testimony in this case.

Q. The testimony of whom?

4171 A. Of Mr. Doddridge; he testified that they ran at least six through trains a day each way between St. Louis and Kansas City; and, as I recall it, he said that in his opinion there would be more than that.

Mr. HAGERMAN:

Q. I would like to ask you, Mr. Ludlam, in Exhibit 35 (which is coupled with Exhibit 36), when you come down to your second set of figures you commence to talk about "ton per mile;" in the first set of figures you give the amount of the different items going to make up the freight operating expenses, as you have them, from Form 1941; that is right isn't it?

A. Yes, sir.

Q. Then your percentages are just calculations showing the per cents of the whole?

A. Yes, sir.

Q. Upon what do you bring into the thing the ton per mile? Why can not you get these percentages, regardless of ton per mile—or would they be the same?

A. Because those percentages show the divisions of each class of operating expenses to the total operating expenses. And the division would be the same, whether applied to the total expenses or the cost per ton mile, or the cost of all ton miles. In other words, assuming for the purpose of illustration, that you had determined that the cost per ton mile was five mills; then, 15.52 per cent of the five mills would be the cost for maintenance of way and structures, included, and so on.

Q. I know how I could work it out. I could work it out on the revenue, or any other basis. But when you are dealing with

4172 percentages, such as your 57.71 per cent, constituting the total conducting transportation expenses. If all these items

were subjected to a multiple of twice as much, when you put the ton mile business in, that is something which you add yourself, wouldn't the figures come out just the same if you figured the double cost without regard to the ton mile, or would they?

A. No, sir, because the unit for calculation is the cost per ton mile.

Q. That is to say, if you use the revenue basis, it divides itself on a basis of about 75 per cent interstate, and 25 per cent State, in round figures?

A. Yes, sir.

Q. And if you use the ton basis, it divided itself practically the same way, in round numbers?

A. Let me look at Exhibit 19.

Q. It is practically 75 per cent and 25 per cent, isn't it?

A. Yes, sir.

Q. And when you come to the ton mile basis, you can figure it so it gives 86 per cent and 14 per cent?

A. You say I can figure it?

Q. You do figure it so by Exhibit 19?

A. The figures themselves show that.

Q. So when you get your Exhibit 35, you are figuring on the basis of 86 per cent interstate, as against 14 per cent State?

A. It is the basis of the actual ton mile, whatever it is.

4173 Q. That is the basis upon which you run it down?

A. You can take your operating expenses on the same basis. The percentages would apply to either.

Q. What I am getting at is, does your example on Exhibit 35, worked out by the use of the percentages 96 and 14, on the ton mile basis, as shown by Exhibit 19?

A. No, sir. It is not based in any way, shape, or manner on Exhibit 19.

Q. And those percentages of 86 and 14 would have no bearing in reaching the same result as you get in Exhibit 35?

A. No connection whatever.

Q. And it would not bring out the same figures, would it?

A. They are entirely different figures. One is the percentage of tons, and the other is the percentage of cost.

Q. The percentage of tons is 75 and 26; the percentage of ton miles is 86.14; if you use that as a simple example, would it bring out the same figures that you have brought out in Exhibit 35?

A. Those two exhibits have no relation to each other whatever.

Q. I know that. But if you used, in figuring out your Exhibit 35 (and I am only asking it to know if I can figure it out with you) if you would use your percentages of total ton miles found in Exhibit 19, would it bring the same result?

A. If you applied the percentages shown by Exhibit 19—why, you can not apply the percentage of cost to the ton mile. One has no relation to the other. One simply shows the division of operating expenses; and the other shows the division of ton miles.

4174 Q. What I want to know in fact, whether it would bring out the same result. Exhibit 19 shows the percentage on

a revenue basis. It shows the percentage on the per ton basis. It shows also the percentage of total ton miles, 86 as against 14. Now would the use of these figures, 86 and 14, of Exhibit 19, applied to your percentages on Exhibit 35, bring out the same result, or would they have any connection?

A. It would have no connection whatever. One is the percentage of the different elements in the operating expenses to the total operating expenses; and Exhibit 19 relates to the revenue and tons.

Exhibit 35 shows the different items of operating expenses entering into the element of cost per ton. Exhibit 19 shows the per cent of tons.

You can take one ton or one thousand tons, and figure out a ratio of cost, and you will get the total cost of your tons.

Exhibit 35, as stated, is simply a division of operating expenses.

Q. I don't know anything about that refined method of calculating, but I do know that if you apply a multiple to conducting transportation alone, and nothing else—say two—you could work out your percentages, and get the percentage of all the operating expenses to be charged extra to the State business.

A. That is what Exhibit 35 does.

Q. If you did it upon the revenue basis, it could be done
4175 upon the figures set forth in your Exhibit 19; if you did it upon the ton basis, regardless of ton miles, you could do it practically upon the basis of 75 per cent and 25 per cent. And it seemed to me that the same result ought to come, as you get in your figures, if you used the percentages on Exhibit 19, of the total ton miles.

A. In the sense you use it, they would have no more connection than the number of tons of coal used in the engine has with the number of times the wheel turns under a box-car.

Mr. LADD:

Q. I want to ask you about Train No. 73, which is called "The Kansas City-St. Joe Red Ball;" what is the percentage of State freight in that train, do you remember, as shown by some exhibit here?

A. Exhibit 15 shows that the State freight amounted to 21.09 per cent. of the total tonnage of the train.

Q. Train No. 77 which is not referred to by any exhibit but is called "The Joplin Red Ball," is another through train running from St. Louis to Joplin?

A. That is also shown by the time-table.

Q. We have no information regarding the tonnage of that through train? That is a regular train, and what is called the "Joplin Division Red Ball"?

A. Yes, sir.

Q. What would be expected of a through train running from St. Louis to Joplin, as to the relative proportion of State freight being found in it, as compared with the "Colorado Red Ball" or the "Omaha Red Ball"? Would there be more or less, naturally?
4176 A. There would be naturally a great deal more in the Joplin Red Ball than in the Colorado Red Ball.

Exhibit 15, which showed the through trains, showed that there was not a pound of State freight on that Colorado Red Ball. But Exhibit 15 did not include Train No. 77, which would be the Red Ball train which would naturally carry more State freight than any other through train.

Q. One day this week I asked you for, or you looked for, a little Missouri Pacific book showing the classifications of freight; have you that book this morning?

A. Yes, sir.

Q. Please refer to it.

A. This is a book of instructions governing the movement of Red Ball and Green Ball freight.

Q. You obtained that from some Missouri Pacific representative?

A. Yes, sir.

Q. What is "Red Ball freight," under the classification mentioned in that book?

A. "Red Ball freight will consist of the following commodities, in carloads or less than carloads: First, all less than carload merchandise—" and then it goes on with a long list of different items.

Q. Now take Green Ball.

A. "Green Ball freight will consist of the following commodities, in carloads—" and then it goes on with a long list, enumerating things which will not be injured by long delay.

4177 Q. Please look at Exhibit 14-A: that is an exhibit offered by the Complainant as to certain local stations, isn't it?

A. Exhibit 14-A is a statement of the tonnage of state and interstate freight carried on local trains between St. Louis and Kansas City.

Q. On certain days?

A. On certain days.

Q. What percentage of that tonnage was in less than carload lots?

A. 7.8 per cent of the total tonnage of the trains shown here, which are local or way trains, was less than carload lots.

Mr. LADD: I have substantially finished with Mr. Ludlam, but should not like to be precluded from recalling him for some further general questions, but there will be no further exhibits offered.

I should like to say in regard to Exhibits 35 and 36 that we may want to figure out what the net results of the freight business would have been for the two years in question.

The MASTER: If counsel on the other side does not call on you to figure out those per cents, the Master will do so.

At this point, the further hearing of testimony herein is adjourned to Wednesday, February 20th, 1907, at ten o'clock A. M., then to be resumed in the Federal Building, in the City of St. Louis, where all parties concerned are required to attend without further notice.

4178 ST. LOUIS, MISSOURI, *February* 20, 1907.

Met pursuant to adjournment as above on February 20, 1907, in the Federal Building in the City of St. Louis.

Upon request and by agreement of counsel the further hearing is adjourned until Wednesday, February 27, 1907, at ten o'clock a. m., then to be resumed in the Federal Building in the City of St. Louis.

ST. LOUIS, MISSOURI, *February* 27, 1907.

Met pursuant to adjournment as above on February 27, 1907, in the Federal Building in the City of St. Louis. On account of the absence of counsel engaged in another cause, and on request and by agreement of counsel in this cause, the further hearing is adjourned until Thursday, February 28, 1907, then to be resumed at ten o'clock in the forenoon in the room of the United States Circuit Court of Appeals in the Federal Building in the City of St. Louis, Missouri.

4179 ST. LOUIS, MISSOURI, *February* 28, 1907.

Met pursuant to adjournment as above on Thursday, February 28, 1907, at ten o'clock in the forenoon in the Federal Building in the City of St. Louis, Missouri.

Present: Hon. F. L. Schofield, Special Master.

Mr. Frank Hagerman appeared in behalf of the Complainant.

Messrs. S. B. Ladd and John Kennish appeared in behalf of the Defendant.

The following proceedings were had:

Direct examination of C. S. LUDLAM, continued as follows:

By Mr. LADD:

Q. Mr. Ludlam, in your opinion, is it possible or practicable to ascertain accurately or exactly the increased cost of doing State business over inter-state business?

A. No, sir.

Q. What approach to accuracy do you think can be made?

A. I think there are certain elements that enter into the question that are more or less a matter of opinion. Such, for instance, as the increased cost of doing business on local or way trains, over the cost of doing business on through trains. But I think that if you make allowance for all those questions, all of those elements, you can still demonstrate even after making the most liberal allowance for those items that are matters of opinion, and still demonstrate that mathematically the cost of doing the state business could not exceed the cost of doing the interstate business by as much as 50 percent.

4180

Q. Per ton mile, do you mean?

A. Yes, sir.

Q. And you think that within the 50 percent limit it might be a matter, and is to some extent at least a matter, of opinion?

A. Yes, sir. I think I said that as to certain items it is a matter

of opinion. But if you allow the most exaggerated estimate of these particular elements that are matters of opinion, you still cannot exceed a total maximum cost in excess of 50 percent on the state business over what it is on the interstate business per ton per mile.

Q. Within that 50 percent limit I would like to ask you to give such opinion as you may have derived from your investigation during these cases, and from any other sources of information you have enjoyed, if you have not been——

Mr. HAGERMAN: That is objected to because this witness under the testimony is not qualified to express an opinion on that subject:

Mr. LADD: Let me finish my question.

Questions continued.

Q. Your opinion as to the extra cost of doing the state business over interstate business?

Mr. HAGERMAN: That is objected to because the witness has not shown himself to be qualified to express an opinion upon that subject.

The MASTER: The objection is overruled.

4181 A. In my opinion the cost of doing the state business is not in excess of 25 per cent more than the cost of doing the inter-state business.

Q. Per ton per mile?

A. Per ton per mile.

Q. Certain exhibits have been offered here by the Railway Company, as Exhibit 14-*a* and Exhibit 15, which show the tonnage of both state and inter-state freight carried by certain through trains on certain days in December, and also certain local trains on certain days in December, 1906.

Now this information I understand from the testimony was obtained by men who went along with those trains, sent out with the trains: Is that your understanding?

A. Yes, sir.

Q. Detailed to go with the trains for that purpose?

A. That was my understanding from the testimony.

Q. Is there any other practicable way of getting that information accurately, as to what makes up the tonnage of particular trains: whether they be local trains or through trains?

A. No, sir, there is no other method that is practicable.

Q. Is it practicable to ascertain that information from the books and records of the company subsequent to the operation of the trains and the handling of them?

A. No, sir, in my opinion it is not practicable.

Q. Testimony has been given here that the entire expenses of what is called the "Kansas City terminal division" I believe,

4182 has been charged by the company and in these statements which have been rendered in this case by the company, to the Missouri part of the system?

A. Yes, sir.

Q. What is your opinion about the fairness or justice of that charge, charging it all to Missouri?

A. I think it is unfair for the total expenses of the Kansas City terminals to be charged to the Missouri business.

Q. Why?

A. Well, because those terminals are used very largely for the business which passes through Kansas City and which does not originate or terminate at Kansas City. Further, they are used very largely for business that originates and terminates at Kansas City, from which Missouri derives no revenue.

We estimate that out of the total business handled at the Kansas City terminals, about one-third of it originates or terminates at Kansas City and about two-thirds of it passes through Kansas City.

The total mileage of the Missouri Pacific Railway and the Central Branch is 3,880 miles, of which only 972 miles lies east of the Missouri state line, or 25 per cent. Practically all of the business——

Mr. LADD: I think I will pass that question just for the present, as we may a little later have some additional information and I will re-call Mr. Ludlam then for the purpose of that question concerning the Kansas City terminals.

4183 Mr. HAGERMAN: I want his examination completed this time before I start in on his cross-examination.

Mr. LADD: Proceed with what you were about to say.

A. I was about to say that practically all the Missouri Pacific business which crosses the Missouri-Kansas line, would use those terminals and it would not seem unfair, therefore, to divide that portion of the expense which is applicable to the business passing through, on the basis of the mileage which lies east and west of that point; that is, 25 per cent to Missouri and 75 per cent to the lines west.

The proportion of the expenses which are applicable to business originating or terminating at Kansas City, should properly be divided on a tonnage basis. Those figures which we hope to have at noon may give us some information on that question. But estimating it just roughly we would say that 50 per cent of this expense would be apportionable to Missouri. That is, we think of the business originating and terminating at Kansas City, more than half of it would be destined to or from points west of Kansas City, instead of to or from points east of Kansas City. If the terminal expense on business which originates or terminates at Kansas City is three times as much per ton as on business which passes through, and we think that is a very liberal estimate, it would make the proportion of the total expense assignable to the State of Missouri, assuming the total expense for the year to be $800,000, and they are approximately that in round figures, it would make of that

4184 total expense $320,000 chargeable to the State of Missouri and $480,000 chargeable to the lines west.

Q. It appears from the testimony already offered on the part of the Complainant, that in the year 1905, the sum of $54,802.01 and

in the year 1904 the sum of $42,804.75 were credited to Missouri and are embraced in the amount of freight earnings credited to Missouri, as shown in the statement offered by the Complainant; and that those two amounts respectively are the difference between the amount received by the Missouri Pacific Railway from other companies for switching freight in those yards, and the amount paid out by the Missouri Pacific Railway Company to other companies for switching freight for the Missouri Pacific Railway Company. That appears from Exhibit 32. It appears that the amount received from other companies was $187,000 in round numbers, and paid out by the company on the same account during the same period was in round numbers $132,000; leaving the net amount $54,802.01.

Now the expenses of the Kansas City terminals are, as you have already said, in round numbers something less than $800,000 per annum?

A. Yes, sir.

Q. Does this Exhibit 32 take into account any of the switching which the Missouri Pacific Railway Company does in those terminals, or any other work which it does in those terminals on its own account?

A. No, sir.

4185 Mr. HAGERMAN: That is to say, Exhibit No. 32 represents merely the sum received from other companies for switching the cars of those companies?

A. Yes, sir, and the sum paid other companies for switching the Missouri Pacific freight.

Mr. LADD: It does not purport and is not intended, as you understand, to represent the total amount of work done in those terminals by the Missouri Pacific Railway Company?

A. No, sir.

Mr. HAGERMAN: Let me see if I understand that exhibit, as I do not re-call it. The $54,000 and the $42,000 represent the net amounts that were received by the Missouri Pacific Railway Company on account of switching, either of the cars of other companies by the Missouri Pacific or the switching of Missouri Pacific cars by other companies?

A. Cars of Missouri Pacific freight, not necessarily in Missouri Pacific cars.

Q. I was speaking of it in the same sense.

A. Company freight.

Q. It was for switching done by the Missouri Pacific Railway Company for some other company or vice versa?

A. Yes, sir.

Q. And these sums given are the net results?

A. Yes, sir.

The MASTER:

Q. And then, as I understand, the $800,000 charged to
4186 expenses for the Kansas City terminals does not include the switching for other companies or switching by other companies for the Missouri Pacific Railway Company at Kansas City: is that the idea?

Mr. HAGERMAN: It does not include what was paid to other companies?

A. That is it. It does not include what was paid other companies or what was received from other companies for switching.

Mr. HAGERMAN:

Q. But it would include the expense of train men engaged in doing the work, wouldn't it?

A. I was going to say that that merely represents the exchange of cash between the Missouri Pacific and other companies. It has nothing to do with the expenses. All expenses both for the switching of other companies and the switching for the Missouri Pacific Company entered into the $800,000. But that shows what they collected for switching done for other companies, and vice versa.

Mr. HAGERMAN:

Q. I think the way this originated, during one period, in keeping an account of switching as between other companies, they kept the gross amount received and the gross amount paid out in a long complicated system, and then they adopted the system of only carrying out the net amount?

A. Yes, sir, I so understand. I think however all the statements in the case treat of only the net amount.

4187 Mr. LADD:

Q. In other words, it did not cost the company anything like this $800,000 per annum, in round numbers, to earn this $187,000 which was collected?

A. No, sir.

Q. There was a vast amount of work done in those terminals by the company, which is not represented and has no connection with this statement No. 32?

A. Yes, sir. Of course they had a much larger amount of switching for themselves than they would have for other people. The terminals are there primarily to take care of their own business.

Mr. HAGERMAN:

Q. But you do not mean to say the expense they would be with their own men and engines and etc., would not be included in the $800,000?

A. Certainly not. That $800,000 includes all the expenses of the terminals.

Q. Of every kind?

A. Yes, sir.

Mr. LADD:

Q. At the close of the last hearing Exhibits 35 and 36 were offered in evidence and it was said that we would prepare some figures showing the results on them, and the Master said he would like to have them prepared anyhow: I will ask you if they have been prepared?

A. Yes, sir.

Mr. LADD: I will offer in evidence Exhibit 37.

Exhibit 37 is in the words and figures following, to-wit:

4188 Q. Look at this Exhibit 37 and state whether that shows the practical workings of the business according to the estimates made in Exhibits 35 and 36?

A. Yes, sir, it shows what the results of operations for the two years would have been on those bases.

Q. Have you prepared another one showing the practical workings as based on Exhibit 36?

A. Yes, sir.

Mr. LADD: I will offer in evidence this paper as Defendant's Exhibit 38.

Exhibit 38 is in the words and figures following, to-wit:

4189 Cross-examination.

By Mr. HAGERMAN:

Q. Is the firm of Haskins & Sells a partnership or a corporation?

A. It is a partnership.

Q. What is the extent of your interest in *ti*?

A. My interest amounts to a little over one quarter, about 26 percent.

Q. In the firm business?

A. Yes, sir.

Q. You are a member of the firm itself and not merely an employé with compensation measured on reaults?

A. No, sir. I am a member of the firm.

Q. How much of the time, personally, have you spent in these rate cases out here in Missouri?

A. Oh, I should think probably three months time.

Q. That is, away from your office and here in Missouri on these cases?

A. Yes, sir.

Q. And what has been the nature of the personal attention you have given to them?

A. Well, I have lais out many of the Exhibits which have been prepared, I have gone over them with great care. I have conferred with Mr. Taliaferro, who has had direct personal charge of the work. And I have attended all of the hearings or read the testimony in the hearings which I did not attend.

4190 Q. How near did you come to attending all the meetings: Take the Missouri Pacific case, have you attended all the hearings in that case?

A. No, sir. I think the first hearings in the Missouri Pacific case I did not attend.

Q. How many did you miss?

A. As I recall it, about five days.

Q. And of the Wabash case, how much did you spend on that?

A. I was absent at one session of hearings, on the Wabash, which I think was four or five days.

Q. With that exception you were there every time?

A. With that exception I was there all the time.

Q. And how much of the time in the Burlington case were you present?

A. I was absent from one hearing held at Chicago.

Q. How much time was that?

A. I think four, five or six days. In each case, however, where I was absent I read the testimony.

Q. How much do you charge the state for your services, Mr. Ludlam?

A. $50 a day and traveling and subsistence expenses.

Q. $50 for each day you are away?

A. Yes, sir.

Q. Each day you spend on this work.

A. Yes, sir.

4191 Q. Under you, engaged in this work, who was there: Mr. Taliaferro was one?

A. Mr. Taliaferro was the man in direct charge of the work. We charge $25 a day for his services.

Mr. LADD: That is objected to. I do not see that it is competent, how much these men are paid.

Mr. HAGERMAN: I think it is very competent how much any witness was paid, who is offering himself as an expert. That is one way to measure a man's character and ability.

The MASTER: I will overrule the objection.

Mr. HAGERMAN:

Q. Besides Mr. Taliaferro what employés have you?

A. We have had Mr. Hamilton.

Q. Mr. Hamilton is a former clerk in the Missouri Pacific office, isn't he?

A. Yes, sir.

Q. At $50 a month?

A. I have not the slightest idea what the Missouri Pacific paid him.

Q. How much do you pay him?

A. $1,820 a year and his traveling and subsistence expenses when away from St. Louis.

Q. Is he now regularly in the employ of Haskins & Sells, or just on this special work in the rate cases?

A. It is our intention to keep him permanently in our employ. He was employed specially in these rate cases.

Q. And so far had devoted his entire time to them?

4192 A. Most of his time. He has devoted some time to one or two other cases. We have found him such a good man, however, that we expect to retain him.

Q. By "rate cases" I meant not only the Burlington case but the Wabash and as well the Missouri Pacific. I did not mean to confine it to this case.

A. I so understood it.

Q. Did you use him in the Burlington case, too?

A. Yes, sir. We used him at Chicago in the Burlington case.

Q. Who else was there that you had in your employ in doing this work?

A. Mr. R. H. Hudson and Mr. J. D. Buckingham.

Q. Who were Hudson and Buckingham?

A. Two of our accoubtants.

Q. Employed for this special purpose?

A. No, sir, both are employés for a great many years.

Q. At what place?

A. Messrs. Hudson and Buckingham are both attached to our Chicago office.

Q. Are they high priced or moderate priced men, clerks merely?

A. We paid Buckingham something over $3,000 last year.

Q. For special work or regular salary?

A. We paid him a regular salary of $2,400 a year. Under our plan of organization we distribute a certain portion of our
4193 profits each year to the men attached to our firm. In that distribution Buckingham got last year some $780.

Q. I was not trying to go into all the details, because it can be answered by a general question. What I want to know is, are these men high priced men or are they merely employés, clerks?

A. Mr. Buckingham is a man who can take charge of work, and is what we call "an accountant" as distinguished from an assistant accountant, who always works under some one else.

Mr. Hudson is also an accountant. We pay Mr. Hudson something over $2,000 a year.

T. M. Willins also a permanent employé, and he was also engaged on the work for some time. We pay Mr. Willins $2,400 a year.

Q. Does that cover all the men you have had on this work?

A. I could not say without looking at the records, Mr. Hagerman. But that covers most of the men and covers most of the important men.

Q. In this case Mr. Taliaferro is the man who had main charge of the preparation of the details?

A. He has had direct charge and supervision of the work.

Q. And these other people you have mentioned were assistants under him?

A. Yes, sir, with the exception that when Mr. Hamilton was working in Chicago on the Burlington investigation, and when Mr. Hudson was working in Omaha, we regarded them as accountants in charge of those particular pieces of work.

4194 Q. I was speaking more particularly of the Missouri Pacific case.

A. Both of them reported to Mr. Taliaferro.

Q. So far as the Missouri Pacific case is concerned, Mr. Taliaferro was the man in charge?

A. Yes, sir.

Q. And so far as you, personally, are concerned, you take only the results of the work turned over by these people to you?

A. I was in general charge. I conferred with them. Many of the Exhibits which have been submitted in this case were designed by me. I planned many of them.

Q. I understand what you say about planning outlines, and the

theory upon which they were gotten up: But did you know yourself anything about the figures that went into them?

A. No, sir, most of the detail work was done by Mr. Taliaferro and his assistants, and in some few cases I made the figures myself, but very few.

Q. Can you point out now in these exhibits any figures obtained by yourself?

A. No, sir. I don't think I could.

Q. It was all based upon information furnished you by these clerks or assistants: That is right, isn't it?

A. Yes, sir. I don't know that I can quite say furnished me; but it was the result of their work.

Q. Figures taken from what they had made up?

A. Yes, sir.

4195 Q. Take for instance your examination of the freight business of the Missouri Pacific Railway for the month of October, 1905: You were asked by a question calling for an answer, necessarily saying that you had made that examination: Now, as a matter of fact, you have made no such examination?

A. If I said I had made the examination, I used the word "I" in the sense of our firm.

Q. What you meant to say, and that is all I am asking you now, this general way of supervising you have already stated on cross-examination, that investigation was made by these men under you, the results reported to you, and you in a general way directed the compilation of figures from which these statements were made?

A. Yes, sir.

Q. All you would know about that, covering the entire business, would be from these figures that were furnished by these assistants of yours?

A. Yes, sir, and our knowledge of their integrity and accuracy.

Q. That is, your belief in the integrity of the figures given you by the men you had employed to do the work?

A. Yes, sir.

Q. So when in your testimony you say, whenever it was necessary to insure accuracy of the work you referred the matter back to the original way-bills, you did not mean you went and made such an examination yourself?

A. No, sir. I meant our representative did that.

Q. That is the way you directed your men to do it, or your men reported to you they had done it?

4196 A. Yes, sir.

Q. When did you begin to make the examination of the two classes of work you did on the Missouri Pacific for the month of October: I believe there was one kind of work gotten up for the first three days, representing certain things for three early days in October, distinguished from one statement, Exhibit 19, comprising the whole month of October.

A. I do not think there is anything in this case about the three days.

Q. I don't think there was an exhibit put in this case, that was

in the Burlington case, and referred to in the testimony in this case, and the results of the month's work compiled into Exhibit 19: That is right, isn't it?

A. Yes, sir. But I would like to explain that very clearly, because I do not think the Burlington case is very clear on the subject.

The examination for the month of October was an examination of the way-bills to determine the tons of freight, per ton mile, earnings per ton, and the average distance hauled of each class of freight. That first examination covered the entire month of October.

Q. When you say "first examination" you mean the one you now refer to?

A. Yes, sir. It covered the entire month of October. All the freight handled by the Missouri Pacific, which would in any way touch the state of Missouri, during the month of October.

4197 The three days' examination was subsequently taken up and was made merely for the purpose of determining the proportions of the different classes of freight which were handled on local trains and on through trains.

The three days' examination had no relation to the month's examination. They are entirely separate and distinct.

Q. I had it in mind that you started on the three days' work and then practically absorbed it and included it in the thirty days' work.

A. I thought last night when I read the Burlington testimony that it was somewhat vague upon that point. And I wanted to explain that.

Q. I am glad you did because I had the other impression about it.

A. The three days' examination was entirely separate and distinct from the month's examination.

Q. The three days picked out certain points?

A. It included all carload freight billed on October 1st, 2nd, and 3rd, 1905. It did not include less than carload freight.

Q. I thought it covered only certain specific stations.

A. No, sir. It covered all.

Q. When did you or your people begin any work on that Missouri Pacific statement: When was that work begun?

A. I think some time in the month of August but I would not be sure about that without referring to the record.

Q. About how early in August?

A. I would not want to fix a date.

4198 Q. Possibly Mr. Taliaferro can remind you of it now.

Mr. TALIAFERRO: It was after the first Burlington hearing and probably near the end of September.

Q. It was soon after that 17th of September Burlington hearing?

A. Yes, sir.

Q. And since that time you have been working upon these Missouri Pacific accounts?

A. Yes, sir.

Q. And how long did it take you to complete the thirty days' work?

A. Early in December, 1906.

Q. Before going into your accounts and exhibits I want you to take Exhibit 3-*a*.

A. I have it.

Q. Go through it with me, pointing out what your objections are to the particular figures therein contained: Because I understand that you have prepared no exhibit along those lines.

Your exhibits have been upon certain theories, including certain things, and I prefer to take this up before I go into the theory upon which you prepared your exhibits.

The first item is "earnings upon commodities affected at old rates, 1904 and 1905": Have you any criticism or objection to make — those figures?

A. No, sir. As I recall it we have no criticism or objection to make — those figures.

Q. The next item "earnings upon same commodities at
4199 the new rates": That item represents where upon certain commodities they had charged in accordance with this schedule of 1905, the result would be as set out there on the second line: That is the way you understand that?

A. Yes, sir.

Q. Is there anything wrong with those figures?

A. In our opinion there is, because you used the short line mileage instead of the actual mileage. That matter has been testified to at some length here.

Q. That was testified to by Mr. Stith and probably some others. Have you made any compilation or computation of figures showing if what you call the full mileage instead of charging what we say the situation required us to charge, what the difference would be?

A. We have for the year 1905. We have not for the year 1904.

Q. What are your figures for 1905?

A. I haven't them before me but they would raise that about $10,000; something between $9,000 and $10,000.

Q. That is to say, you have made no compilation of the figures for 1904 but you have made a computation for the year 1905, so the $152,800.09 would be practically $162,000?

A. Yes, sir.

Q. So the decrease in earnings at the new rates found in the third item of Exhibit 5-*a*, instead of being $74,699.68 would be about $64,000?

A. $64,000 or $65,000.

Q. And how much difference in the per cent would that
4200 make. That is, it is 32.83 per cent for 1905?

A. It would make a difference of between 4 and 5 per cent.

Q. So it would be 27 or 28 per cent instead of 32.83 per cent?

A. Yes, sir.

Q. Now, then, the next item in this Exhibit 5-*a* is the total revenue from all local business in Missouri at old rates, including commodities affected, for those respective years: What is the criticism or objection that is made to those figures?

A. None. We think those figures are very reliable. We found some minor clerical errors, but not enough to affect them materially.

Q. In Exhibit 5 put in, in checking over with your experts and the company's experts, some minor errors were found, and Exhibit 5-*a* was made to correct them?

A. That is it.

Q. Was any substantial difference made?

A. Corrections were made on the expenses and not on the earnings.

Q. For all practical purposes we may pass that item as correct?

A. Yes, sir, in our judgment that is correct or as near correct as it could possibly be made.

Q. The next item seems to be "total expenses of local freight traffic." That, as I understand, adds to the expense an extra
4201 cost of 50 per cent for doing the local over the inter-state business?

A. No, sir, it adds nearly 300 per cent. It adds 50 per cent in proportion to revenue.

Q. Before we get to our difference in accordance with revenue, or upon the ton mile basis, what that does include is what Mr. Johnson estimated for the purposes of the statement, in the way of an allowance for the extra cost of doing state business over interstate?

A. I don't think I am qualified to testify to what Mr. Johnson estimated.

Q. I supposed you had heard the testimony.

Turn to pages 3 and 5 of Exhibit 5-*a* and tell me what the item of total expenses of local freight, with the additional sum added would be upon a revenue basis, without any additional allowance, for the extra cost of doing the state business: Have you those figures?

A. It was just ⅓ less than this, you know.

Q. Look at Exhibit 6.

A. I have Exhibit 6.

Q. That would make the sixth item for 1904 as set forth in Exhibit 6, wouldn't it: For 1904 and 1905 as set forth in Exhibit 6?

A. I don't understand.

Q. Possibly I do not make myself plain. I understand now and I will pass that for the present, that so far as this sixth item
4202 here is concerned, there is an absolute irreconcilable difference between us, as to adding anything, or what amount if anything should be added on account of the extra cost of doing the local over the interstate business.

Now that item 6 includes that extra cost. I want to get the figures based upon the division of revenue before any extra cost is added, and I ask you if that is not as set forth in Exhibit 6?

A. Yes, sir. With the exception that the figures on Exhibit 5-*a* were changed slightly from those shown by Exhibit 6.

Q. From those shown by Exhibit 5 and exhibit 6 was prepared upon Exhibit 5, before the correction by Exhibit 5-*a*?

A. Yes, sir. Exhibit 6 has not been corrected to agree with Exhibit 5-*a*.

Q. If Exhibit 6 should be corrected in this manner, so as to correspond to Exhibit 5-*a*, it would not change, for the purposes of this case, the practical results?

A. No, sir.

Q. The percentages would be practically the same?

A. Yes, sir. It should be understood that the expenses shown on Exhibit 6 includes the taxes, rentals, and interest on bonded indebtedness.

Q. I understand that. But what I am getting at is, that that basis, assuming the revenue basis is a proper one to start with, to get the start, there is nothing the matter with those figures except in the particular you speak of?

A. Mathematically the figures are correct. It is the prin-
4203 ciple we object to.

I should like to qualify that and say, with the further exception, that expenses as shown by page 3 of exhibit 5-*a* include total terminal expenses at Kansas City.

Q. If you are ascertaining upon the revenue basis, without regard to any extra cost, the method of division suggested there by exhibit 6 is all right and mathemati-ally that works out properly?

A. Yes, sir.

Q. And the theory of that, assuming a division upon the revenue basis is proper, is to take such proportion of the total expenses as the earnings from the state business bears to the entire earnings of the road in the state?

A. Assuming that is a correct basis, that would be the way to do it.

Q. And it is figured out properly, with the exception of the corrections you speak of on Exhibit 6?

A. Mathemati-ally the figures are correct.

Q. Then turn to page 3 of Exhibit 5-*a* and find out whether of the total expenses you make any objection. Take the first item of expenses on the 3rd page of exhibit 5-*a*: "total operating expenses $4,000,000 in 1904" and then $4,000,000 in 1905: What beside the Kansas City terminals, to which you have just referred, is there in the way of objection to that operating expense?

A. We have not any.

Q. The next item you would say, even on a division upon
4204 the revenue basis, was wrong because it is taxes, and according to your theory it ought not to be charged to expenses, or ought that be included?

A. My idea is it should be included, as a separate item, and shown as a separate item outside of operating expenses.

Q. That is, it is an expense of the property and a burden on the property?

A. Unquestionably.

Q. In your judgment the taxes should be included?

A. Yes, sir.

Q. Although they should be separated from the operating expenses?

A. Yes, sir. I say so because it is so generally handled in railroad accounting.

Q. Now as to rentals, there is no objection to the fact that rentals in the amounts shown for 1904 and 1905 were actually paid?

A. No, sir.

Q. And that we paid to other roads for using portions of their tracks at certain places, weren't they?

A. Yes, sir.

Q. Do you remember the specific places?

A. No, sir.

Q. For illustration one was what we call a cut-off where they run over a piece of the Santa Fe Road in going into Kansas City. As I understand you, there is no objection to the actual payment. Is there any objection to treating that as a part of the whole
4205 expenses upon the same basis as you treated taxes, and if so, what is it?

A. From an accounting standpoint I know of no reason for treating it differently.

Q. If we were ascertaining expenses on a revenue basis, is there any objection to it?

A. There may be some legal, technical reason in this case that I do not understand.

Q. But so far as you understand, or your expertness or accounting goes, although it should be separated from the operating expenses, it is properly charged in the total expenses?

A. Undoubtedly, as a burden upon the property.

Q. Interest upon the bonded indebtedness, for those two years, seems to be the last item set out there: Did you check that to find it was right?

A. Yes, sir.

Q. So, assuming that character of obligation should go into the account, there is nothing the matter with that?

A. No, sir.

Q. So when we get through with exhibit 5-*a* and eliminate for the time being, for settlement by the Master and Court hereafter, the question of what if anything ought to be allowed for the extra cost of doing the state business over interstate business, the only objection to that whole statement, is the Kansas City terminal situation and any legal questions that the lawyers may make as to whether taxes or interest are expenses?

4206 A. And the item of nine or ten thousand dollars that I mentioned as applicable to lines 2 and 3 in Exhibit 5-*a*.

Q. That is to say, the item in the 2nd and 3rd lines there, if we had estimated the earnings upon these commodities at the new rates upon the full mileage, instead of the short line mileage, as testified to by Mr. Stith and others, there would have been a difference of about $10,000 there?

A. Yes, sir.

Mr. LADD: Let me interrupt there.

Q. You say that the only objection you have to the operating expenses as shown there, are that the Kansas City terminal expenses have all been charged to Missouri. What do you say about charging to freight operating expenses the entire expense of hauling company material?

A. I think that technically freight expenses should be credited with something for the company material hauled for the use of passenger trains.

Q. You do not know how much that is?

A. No, sir.

Mr. HAGERMAN:

Q. You have made no figures or estimate on that?

A. No, sir.

Q. Have you checked up the passenger business at all?

A. No, sir.

Q. And you have made no figures as to expenses or earnings on passenger business?

A. No, sir. I have checked some figures given to us by Mr. Schuyler.

4207 Q. I asked you whether you had made up any figures?

A. No, sir.

Q. But so far as there is anything to be charged to the passenger business on account of company material hauled, you have made no estimate or statement in regard to that?

A. No, sir.

Q. The furtherest you have gone, with the slight attention you have given it, is that you think something ought to be charged to the passenger business on that account?

A. Yes, sir.

Q. So far as your testimony is concerned, that does not vary from the result we reached about how far we were agreed about Exhibit 5-a?

A. No, sir. Down to the point of ratio of expenses.

Q. Now I am going to turn with you to your exhibit 19: In making up that exhibit how did you treat the shipments of live stock from Kansas City, Missouri?

A. As interstate business.

Q. All of it?

A. All of it. The live stock shipments into and out of Kansas City, in whoch Missouri was interested, were treated as interstate business.

Q. That is to say, any shipment of live stock that came from any point into Kansas City, or went out into any point in Missouri, or crossed Missouri in any way, whatever, was all treated as interstate business?

A. Yes, sir, that crossed Missouri in any way and touched the Kansas City stock yards.

4208 Q. As a matter of fact there were no live stock shipments into or out of Kansas City that were treated by you in that account as state business?

A. No, sir.

Q. Have you any statement that would show what Exhibit 19 would have been if you had treated that or any particular portion of it as state business?

A. The first Exhibit that was prepared for the Burlington hear-

ing, I think it was Exhibit 16 in that hearing, which covered a portion of the work only, treated that business as state business. But in the final Exhibit put in in the Burlington case, Exhibit No. 27, the live stock was all put into the Interstate and taken out of the state.

Q. But so far as this case is concerned, there is not anything here except this exhibit (indicating) showing anything about that?

A. No, sir.

Q. And it is a very substantial sum of money?

A. Yes, sir.

Q. Because the business is very large?

A. Yes, sir. The reason I explained that was because you asked if we had prepared any figures which showed that, and I wanted to explain it.

Q. I want you to explain that.

A. Changing that from state to interstate, the interstate earnings per ton per mile were considerably increased.

Q. But if you are wrong about that, every figure in Exhibit
4209 19 is wrong?

A. No, sir, I wouldn't say that?

Q. What figure would be right?

A. Less than carload. I don't think as a rule they ship live stock in less than carload lots. There might be a shipment of one cow or one steer or one horse.

Q. I assume there are a good many shipments. I have received horses myself that came in a car and I know Judge Spencer has driven a good many more than I have and he has done the same thing. So you are not accurate in saying there are no less than carload shipments. But what you mean is that a substantial portion of the live stock business is in carloads?

A. I did not say there were not any, but I say these figures did not induce any. But if you take live stock out of interstate and put it into state these figures would be changed.

Q. And can you tell me any figure in Exhibit 19 that would not be changed?

A. Yes, sir, a great many.

Q. What is one?

A. The total interstate and state tons, total state and interstate revenue.

Q. Total state and interstate tons. Gross interstate and state revenue?

A. Yes, sir. The average amount received per ton for all freight from state and interstate. The number of tons one mile, all
4210 freight both state and interstate. The average amount received per ton both state and interstate and the average length of haul both state and interstate. Also all the items shown in line 8, being the total carloads, and all items shown in line 9, being total less than carloads. Those figures would not change. It would be still a carload whether state or interstate, and still be less than carload.

Q. But everything else would change?

A. Some of these percentages that relate to proportion of carload to less than carload, No. 16, would not change.

Q. Let me see if I understand the basis upon which you prepare your Exhibit 19:

You took the entire business for a month, did you?

A. Yes, sir.

Q. And from what was the examination made?

A. From the Auditor's freight journal, and the way-bills.

Q. Was there any way by which you could have told, if you had wanted to do it, the number of cars and the number of tons hauled in each car, also as to the different classes of freight you could have found out the amount of waste tonnage of waste space?

A. That could have been done as to carload freight.

Q. But you didn't do it?

A. No, sir? it never occurred to me until this minute. It would have been an excellent thing to have done.

Q. Why would not that have been an excellent thing to have done, to aid in your accuracy, if you had dealt in that same way with the less than carloads?

4211 A. That would not have been practicable.

Q. Why not?

A. Because so many different shipments go into the same car.

Q. That is to say, take a less than carload car starting from St. Louis to Jefferson City, there may be shipments going to different points along the line, so that the same stuff would not be in the car at the journey's end.

A. Yes, sir, that is one reason. It changes so often. And also, it would be almost an impossibility to locate the different way-bills to the different cars into which they went. To get the way-bills together to apply to one car, there might be 100 or possibly more filling that car. It would be almost impossible to sort the particular way-bills that apply to that car, out of the great mass of way-bills the company has.

Q. After all, if you have the way-bills and have the books and documents showing the destination, the weight and capacity *fo* the car, it is only a question of labor to get that information?

A. As to the carload, yes.

Q. As to less than carload?

A. No, sir.

Q. Why isn't it?

A. I don't believe, to start with it could possibly be done accurately as to less than carload, from the records in the Auditor's office, and I think your own auditors would tell you that.

4212 Q. What else would you have to know to do it accurately? I say it is just a question of the work involved. If you had wanted to do it for three days instead of thirty, what would you do?

A. There might be a car on the Missouri Pacific that would run in a local or way train between St. Louis and Pacific Junction every day in the month; say, Missouri Pacific Car No. 761. Now, you would have to go through all the way-bills of the Missouri Pacific Railway for the period you wished to cover, and pick out all those way bills which showed that freight was carried in car No. 761. And

after you had done that, I am not sure, after you had gotten all the way-bills, say five thousand out of five hundred thousand on file, I doubt if you could allocate the way-bills of the 7th instant. to the movement of car 761 over the road on the 7th inst., because that freight might have laid on the station platform until that car came along on the 9th or the 11th.

Q. None of these difficulties would exist as to carloads?

A. It could have been done as to carloads.

Q. It was not done?

A. It was not done. I don't think it could possibly have been done as to less than carloads.

Q. In getting up this statement Exhibit 19, you did nothing, then, about making any estimate of the number of trains, or the number of train miles.

A. No, sir.

Q. What division upon train miles, or estimate on a train mile basis, which you hear frequently spoken of in railroad circles?

4213 A. Revenue train mile basis.

Q. Upon the basis of train miles, or trains earning revenue, as distinguished from empty cars being hauled: isn't that the difference between the revenue train miles and the other kind?

A. Yes, sir, that——

Q. How do you arrive at the revenue train mile?

A. That would be one definition, and the other would be "trains hauling company freight." That is usually what is meant by "non-revenue."

Q. Either absolute empties—or that is hard to conceive.

A. There are very few of those. Some few through trains might run that way.

Q. Call it "revenue train mile": if you wanted to make up a statement on the basis of revenue train miles, how would you ascertain it?

A. Get the revenue train mileage and divide it into the revenue.

Q. In getting up figures for Exhibit 19, did you prepare any figures on that score?

A. No, sir. We did not treat with revenue train mileage in any way.

Q. What you did by Exhibit 19 was, you undertook to make a compilation, based upon your examination for the month of October, of the freight, and in column No. 1 you set out the number of tons handled in Missouri, dividing the Interstate and state each into carload and less than carload lots?

A. Yes, sir.

4214 Q. Now, when you get in the tonnage hauled, what was the percentage—If you were going to divide your expenses in accordance with the number of tons hauled, what proportion of all expenses ought to be charged to the freight?

A. You said tonnage hauled: You mean the number of tons?

Q. Yes.

A. If you were going to divide your expenses on the number of tons handled?

Q. Yes.

A. In the proportion of 75.26 of the total operating expenses to interstate, and 24.74 to the state business, if you divided it on a tonnage basis.

Q. That percentage is shown in Column 2 of Exhibit 19?

A. Yes, sir.

Q. In column 3 you have the gross revenue?

A. Yes, sir.

Q. That is, everything received from state and interstate business, subdivided the same as you subdivide the tonnage?

A. Yes, sir.

Q. And in column 4 you have the percentage of total revenue?

A. Yes, sir.

Q. What is that?

A. The percentage of total revenue from interstate freight is 74.27, and from the state freight 25.73.

Q. And what is the percentage as compared with that of
4215 the tonnage, practically the same, isn't it?

A. Practically the same.

Q. So that if the expenses were divided upon the basis of the revenue, or upon the basis of the tonnage, practically 25% would go to the state, and 75% to the interstate; that is, they are pretty near together?

A. Yes, sir. If divided on that basis that would be the apportionment.

Q. So that if Mr. Sturgis' example ascertaining the increased cost is the one to be applied, it could be applied by using his multiple either upon the percentage on the tonnage basis, or upon the revenue basis, couldn't it?

A. No, sir, his example had no reference to the tonnage basis.

Q. It was upon the revenue basis: but the same result practically, would come by using the tonnage basis?

A. If the tonnage is the same as shown by Exhibit 19.

Q. Assuming for the purposes of this examination that your figures are correct.

A. The result would be practically the same. I did not mean to question the accuracy this time, as to whether they would apply to the Burlington. I think they would, in general. There are, however, some small differences.

Q. That is to say, if it cost three times as much to do the state as to do the interstate business, upon this Exhibit 19, practically fifty
percent of the expenses should be charged to state, whether
4216 you do it upon the tonnage or upon the revenue basis: isn't that right?

A. If you apportion the increased expense upon the tonnage or upon the revenue basis, without regard to the distance hauled, that would be correct.

Q. When you deal with the average amount received per ton of freight handled, in this Exhibit 19, what is the difference between state and interstate?

A. In the case of carload, or less than carload, or all?

Q. Take it for all?

A. Not very much. In the case of interstate it is 82 cents and a fraction, and in the case of state it is 86 cents and a fraction, per ton.

Q. Take it for the whole business, state and interstate, it is 83.29?

A. Yes, sir.

Q. In other words, the interstate is a little less than the average, practically one percent less than the average?

A. One cent, not one per cent.

Q. One cent less?

A. Yes, sir.

Q. And the state is three cents more, practically?

A. Yes, sir.

Q. So when you take the average amount received per ton, there is not any substantial difference between the state and the interstate business?

A. No, sir, it is very similar.

Q. But when you get it reduced down to the amount received per ton per mile, your average system results in the interstate
4217 receiving about one-half as much as it received from the state?

A. A little less than one-half as much per ton per mile.

Q. How do you account for that difference?

A. That the interstate freight is hauled farther, on an average, than the state freight.

Q. The additional haul makes the difference?

A. Yes, sir.

Q. Let me apply Mr. Sturgis' example to your percentages, based upon the ton mile theory: That is to say, if you divide expenses in the proportion of the total tons per mile of the state and interstate, what is the division, That is your Column 7?

A. Column 7 shows that 86 percent, roughly, of the ton miles, were interstate.

Q. And 14 per cent, roughly——

A. Yes, sir, were state freight.

Q. If Mr. Sturgis' method of computing was right, you would multiply 14 by three, which would make 42?

A. As I recall Mr. Sturgis' testimony, he would multiply by three to seven or both.

Q. Take it by three: Three times fourteen would be forty-two?

A. Yes, sir.

Q. Add that to 86, makes 128?

A. Yes, sir.

Q. And that would leave to apportion, upon that basis, 42/128 of all the expenses to the state business?

A. Yes, sir.

4218 Q. In percentages, what is that of the total?

A. Thirty-two and a fraction percent.

Q. As against 50 percent, if you would make the same division, and work that same example upon the basis of revenue or total tonnage?

A. If you multiply the tonnage by three it would be fifty.

Q. I thought you said that was the right way to do it?

A. I said that was mathematically correct. It was simply questioning whether you multiply by 3 or 7.

Q. If you are given the multiple——

A. Of three.

Q. If you were absolutely together on the proposition that it costs 3 times as much to do the state as to do the interstate business, Mr. Sturgis' method of doing that example is right?

A. Three times as much in proportion to revenue—yes.

Q. And you can apply that example either to the ton mile basis, or to the tonnage basis, or to the revenue basis: it is just a matter of mathematical calculation?

A. No, sir. I don't think that at all. You can apply it to anything. You can apply it to the number of men in St. Louis. But, if you want to apply it correctly, you apply it only to the ton mile basis.

Q. Applying it to the ton mile basis, assuming you are right in your Exhibit 19, it would result that on the revenue basis 50 percent of the expenses should be charged to state, whereas upon the
4219 per ton per mile basis 32 per cent should be charged?

A. Yes, sir. That is, at the ratio of three to one. That is, the state costing three times as much as the interstate.

Q. Now, at one and a half times, what would it work out in those examples, seventy-five and twenty-five I think we have been using for the others, as round numbers?

A. In the case of per ton per mile it would be 19 and a fraction per cent: in the case of the revenue and the number of tons, it would be thirty-three and one third per cent.

Q. How would you figure, if you were going to find a valuation of the property in Missouri, to assign to the freight business upon which you were entitled to a return; how would you divide the total valuation in the state—how do you divide it?

A. To find out the proportion applicable to the local freight business?

Q. Yes, We have got property in the state; we have so much, as it is used in the passenger business; and used in interstate, and used in the state business. How do you figure the property upon which we are entitled to have some kind of a return, in the transportation of state business: have you made any figure on that?

A. I have not.

Q. Have you any idea as to how that should be divided?

A. I would want to think about it a little.

Q. Haven't you ever thought about it in all this litigation?
4220 A. Only in the most superficial way.

Q. What is your idea about what we should have a return on? Would you allow anything?

A. Oh, yes, unquestionably.

Q. What?

A. I think that is a legal question, and not an accounting question. I am perfectly willing to give my opinion if you wish it.

Q. I think there is a good deal you have testified to, that I might say was a legal question, but you are here as an expert, and your opinions are entitled to respect.

A. I will be very glad to give an answer.

If I made a division, I think I would apportion it on the basis of the gross revenue.

Q. Why would you apportion it on the basis of the gross revenue?

A. Well, because—— It does not seem a very good explanation—but because it is the simplest method.

Q. That is one good reason. And another good reason is what?

A. It is the most direct method.

Q. It is the most direct method of arriving at practical results, taking everything into consideration. You have a whole property in the state, and you get a whole return. That comes pretty near, in your opinion (upon a division of what you get a return on) to being a fair and good way to divide it, doesn't it? First, because it is simple?

A. I don't know that that holds, Mr. Hagerman.

4221 Q. The simplicity of it, there is no question about?

A. There is no question about the simplicity.

Q. What about the fairness? What objection is there to the fairness?

A. I am speaking in the most superficial way: but there is this objection that occurs to me; The net earning have something to do with it, as well as the gross earnings. If you have that track there, and do ten dollars worth of business, and it costs you nine dollars to do it, you earn only one dollar from that business. And, from another kind of business you earn ten dollars, and it costs you six dollars to do it, you really earn four dollars on that business. It is a question whether you ought to divide it half and half, because one earns you four times as mich as the other.

Q. You never heard of its being divided except in the way of which you spoke, that is, upon the gross revenue basis?

A. No, sir. I don't think I have ever heard of it being divided at all, Mr. Hagerman.

Q. It is quite a problem to make any division between these different interests: I want your reasons, if you have any. Have you any other observations to change the opinion you have expressed, that it ought to be done upon the gross earnings basis?

A. I don't want to construe that as meaning that I think that is the way it ought to be done.

Q. You said in your judgment it would be right, didn't you?

A. No, sir.

4222 Q. Do you want to express an opinion that it should be done in some other way?

A. I want to say that without giving it some further thought, I would not want to say that. But the simple way would be to divide it on the basis of gross earnings.

Q. And so far as you can see that would be the way you would do it, if you were doing it now?

A. If I did it off-hand. But if a matter of that importance were left to me, I should not do it off-hand.

Q. Let us go a step further: Do you know that the value of this whole road in Missouri is $60,000 a mile. Dividing it upon the gross revenue basis, assuming your figures were correct, would practically be 25 per cent, or $15,000, of that to the local or state freight, wouldn't it?

A. I don't think that much, but I have not those figures. I should say, off-hand, it would not be anything like that, because the local freight earnings, as I recall it, are only 27 or 28 percent of the gross freight earnings, and then of course would be the passenger and mail earnings.

Q. What percent of the whole is it?

A. It would be about 20 percent, roughly.

Q. And upon the basis of $60,000 that would be about $12,000 a mile?

A. Yes, sir, roughly.

At this point recess was taken until two o'clock.

4223 After recess on Thursday, February 26, 1907, the following proceedings were had:

The cross-examination of C. S. LUDLAM continued.

By Mr. HAGERMAN:

Q. Regarding Exhibit 19, about which we were speaking before recess, the first column deals with the number of tons?

A. Yes, sir.

Q. That means the number of tons of local freight that was actually carried in Missouri?

A. Yes, sir.

Q. And that was obtained how?

A. By abstracting the way-bills.

Q. And you included in that, did you or not, the tonnage of the company freight that was carried?

A. No, sir, this is revenue freight only.

Q. Revenue producing freight?

A. Yes, sir.

Q. The second column "percentage of total tons:" That is to say, on each line you set out the figures representing the percent of the total number of tons carried in Missouri that was carried of that particular class?

A. Yes, sir, of the total number of revenue tons.

Q. In your revenue what did you include, the gross earnings of the revenue freight: What did you include in the term "freight": Was there any revenue from switching, demurrage, or storage?

A. No, sir, not in this.

4224 Q. Any revenue from mail or express?

A. No, sir.

Q. Any revenue from miscellaneous earnings?

A. No, sir.

Q. Was there anything else that you included or assigned to state or interstate business respectively, different from what was assigned in Exhibit 5-*a*?

A. Not in the gross earnings. There were certain charges made against the gross earnings which were not apportioned against the revenue, in Exhibit 19.

Q. What were they?

A. Switching charges and transfer charges and small items of that nature.

Q. What did you do with them? Eliminate them from revenue?

A. I was going to say, which were paid by vouchers and it would have involved a large amount of work to go through all those vouchers and attempt to apportion the charges against the specific freight. In fact I question whether it could be done. It would amount to only a small fraction of one per cent. Yes, sir, we eliminated those and paid no attention to them. We based this entirely on the way-bills.

Q. This was just the revenue as shown by the way-bills?

A. Yes, sir.

Q. I see the total is $508,542.46.

A. Yes, sir.

Q. Upon that basis for twelve months what would it be?

A. Something over $6,000,000.

4225 Q. Something over $7,000,000 wouldn't it?

A. No, sir, something over $6,000,000.

Q. Figure that for a moment.

A. (After figuring:) $6,102,509.52.

Q. How much more was that than the earnings for 1905, from all freight?

A. About $450,000.

Q. It would be more than that, wouldn't it, because there is $256,715.32 in 5-*a* that comes from "service incidental to freight traffic" which you did not include?

A. Yes, sir. It would be nearly $700,000 then.

Q. In excess?

A. Yes, sir.

Q. And how much in excess of the earnings in 1904?

A. A little less than $500,000.

Q. In assigning certain gross earnings to the interstate business, upon what rule did you do that?

A. Upon the mileage basis, where it was interstate.

Q. Where it was interstate?

A. Yes, sir. The revenue was divided between the states on the basis on the road mileage, the mileage traveled by the freight.

Q. If for instance, freight started from Indianapolis to go to Jefferson City, you would assign to Missouri such proportion of the total mileage that that freight was carried, as the number of miles in Missouri bore to the whole distance?

A. No, sir, not where it crossed the Mississippi River. That would be based upon Mississippi River rates. There would

4226 be a special division there applicable to Missouri.

Q. What is the difference between the way you separated state and inter-state and the way the company did in the compilation of its statement?

A. None. They are exactly the same.

Q. In every respect is that true?
A. Yes, sir. I so understand.

The MASTER:

Q. You made no criticism of the methods pursued by the company in apportioning the freight between State and interstate?
A. No, sir. We followed their methods. In the case of the Missouri Pacific Railroad we made no criticism. We adopted the Company's methods.

Mr. HAGERMAN:

Q. Now this "average length of haul of interstate business," which is in column 9 of Exhibit 19, how is that arrived at: or, rather, what does it represent? The average length of haul entirely in interstate business, or the part in Missouri only?
A. The part in Missouri only.
Q. There is a large amount of freight in the interstate carload tonnage moved from Kansas points to the south for export, and freight from the south to points in Kansas, of which Missouri gets a 27 mile haul, isn't there?
A. Yes, sir.
Q. About how much of that is in your statement?
A. I could not say, Mr. Hagerman, off-hand. I would have to look that up.
4227 Q. How did you deal with that? Allow it the 27 miles?
A. Yes, sir.
Q. That would have a tendency to cut down the average length of haul?
A. Yes, sir.
Q. And the average earnings on the interstate carload business?
A. No, sir. I do not think it would reduce the earnings per ton per mile, because I think those earnings would probably average the same as other interstate earnings, taking all of the freight into consideration.
Q. Pass to your Exhibit 20: what is it that is supposed to represent?
A. That is supposed to represent the total carload freight on a ton mile basis handled in Missouri by the Missouri Pacific Railway, as the result of way-bills made on October 1st, 2nd, and 3rd, 1905. We separate that tonnage between through interstate, second class interstate, and state.
Q. That is to say, In Exhibit 19 you treated interstate as a whole, without any subdivision as between the two classes?
A. Yes, sir.
Q. But when you came to classify for the three days in October, you made the separation?
A. Yes, sir.
Q. Why didn't you make the separation for the entire month?
A. Because when we started on the month's work the ques-
4228 tion of there being a division in interstate freight as between "through interstate" and "second-class interstate," had not

been raised. And before that question was raised in the Burlington hearing in Chicago, we had done about one-half of the work involved in Exhibit 19. And on account of the time required to go back and do that portion over again, we continued Exhibit 19 as it had been started.

Q. What were the total ton miles for the month of October, for all the freight?

A. 56,318,587.

Q. For three days what would that make?

A. It would make about 1/10. Three days would be about 1/10 of thirty days.

Q. That is to say, for three days, upon the figures you have in Exhibit 19, it would be over 5,630,000?

A. Yes, sir.

Q. And on October 1st, 2nd and 3rd it runs to only 3,600,000?

A. Yes, sir. The three days' statement covered by Exhibit 20 does not include any of the less than carload freight. Exhibit 19 includes both carload and less than carload.

Q. Exhibit 20 is limited to carload freight?

A. Yes, sir.

Q. What is Exhibit 21?

A. Exhibit 21 is a statement of the gross earnings, maintenance of way and structures, maintenance of equipment expenditures,
4229 per mile of line operated of all the railroads in the United States for the eleven years ending June 30, 1904.

Q. What is the purpose of that exhibit, in your mind, of its preparation?

A. To show the average gross earnings per mile of line of all the railroads in the United States and the increase which has taken place during the last ten years, and to show correspondingly the increase which has taken place in the charges made against operating expenses for maintenance of way and structures and maintenance of equipment.

Q. How does that in any way bear upon anything you have said or any opinion you have expressed in this case, or in your judgment how does that bear upon this question of expertness with which you are dealing?

A. It relates to the figures which have been submitted in this case, but not to any opinon I have expressed.

Q. What figures?

A. The figures submitted by the company, of the different items of expenditures.

Q. For instance, let us compare: what were the gross earnings per mile of the Missouri Pacific Railway in Missouri in 1904? What I want to get is the Missouri Pacific figures to compare with your statement here. The gross earnings of all the railroads, the average of all, is set out in the first column of Exhibit 21?

A. Roughly, $8,600 a mile.

Q. Take the next column, maintenance of way and structures and maintenance of equipment, each. That $8,600 you gave of the gross earnings is about $700 a mile less than the average
4230 for the United States?

A. In the year 1904?

Q. Yes, comparing it with the year 1904.

A. Yes, sir.

Q. Have you it for 1904? Is there any substantial difference? I want you now to compare the Missouri Pacific figures with these figures for the United States. If there is any substantial difference for 1904 give it to me.

I will ask you if the $8,600 from your figures here would be a fair comparison for the Missouri Pacific, with this figure upon Exhibit 21 for 1904—if it would be at all fair.

A. I think it would be fair to compare that with the $8,600 for the Missouri Pacific.

Q. The point I want to bring out is, that taking the average of all the railroads in the United States, it would make $700 a mile more than the Missouri Pacific gets in Missouri.

A. Something about that.

Mr. LADD: Are you asking about the same year in each case?

Mr. HAGERMAN: He says $8,600 is near enough to represent 1905.

Mr. LADD: That statement goes only to 1904?

Mr. HAGERMAN: Yes.

I see here the average cost of maintenance of way and structures throughout the United States for the year 1904 averaged $1,231.26?

4231 A. Yes, sir.

Q. And on the Missouri Pacific what was it?

A. About $1,050.

Q. And how about maintenance of equipment, $1,259.52?

A. About $1,140.

Q. Now, then, was the purpose in producing this Exhibit 21 to show that there had been proportionately a larger increase in earnings than there was in maintenance of way and structures?

A. No, sir.

Q. Because seemingly here the increase of cost of maintenance of way and structures is a small percentage less than the increase of gross earnings, taking the United States all the way through?

A. Yes, sir.

Q. But when you come to equipment it is a very much larger increase?

A. Yes, sir.

Q. What is the significance of that?

A. The exhibit was intended to show, in a general way, that all the roads of the country have been improving their property by charges made to their operating expenses. In other words, legitimate maintenance of way and structures would not increase as fast as the gross earnings, if the expenditures were limited to maintenance expenses. Because there is a certain amount of maintenance expenditures due to age, decay, etc.

4232 Q. Let us see if that is right fair: take the question of equipment here in our own state: has not the character of the equipment used, say in the State of Missouri, so improved in

quality within the last ten years as to account for that increase? Take for instance the services rendered upon the Burlington trains to the north, to Kansas City, and between Kansas City and Chicago: is there any comparison between the equipment used to-day and what it was ten years ago?

A. No, sir, I think they use better equipment to-day than they used ten years ago. At the same time, the Burlington used very fine equipment ten years ago. The train from Chicago to Denver was a very fine train.

Q. I am talking about the Missouri equipment.

A. I think that would account for some part of it, Mr. Hagerman.

Q. It would account for all of it, wouldn't it?

A. No, sir, not all of it.

Q. Take the freight equipment, much more is required now than formerly?

A. Yes, sir.

Q. The cars are larger?

A. Yes, sir.

Q. The cars are more costly?

A. Yes, sir.

Q. The engines are larger?

A. Yes, sir.

4233 Q. And more powerful?

A. Yes, sir.

Q. And there has been a constant increase?

A. Yes, sir, and I would like to explain——

Q. Let me get through and then you can explain. I do not want you to leave an unfair inference against us, unless you can fairly draw it from the facts.

A. Very well.

Q. One reason accounting for the increased amount of equipment and the growth in size, has been necessarily, the growth and increase of business west of the Mississippi River?

A. Unquestionably.

Q. Take it through Missouri and out from Kansas City, the growth in transportation of products has been almost phenomenal, hasn't it?

A. Yes, sir.

Q. If you have any reason for drawing an inference why we should have said we were charging stuff to maintenance of equipment, when it should not have gone there, go on and state it.

A. I did not mean to state that you had made charges to maintenance of equipment when it should not have gone there, but I mean to say you have improved your property at the expense of your operating expenses. For instance, your engines are bigger and better. When an engine you paid $10,000 for 15 years ago has worn out in the last 5 years you have replaced it with an $18,000 engine and have charged all of that $18,000 to operating expenses.

4234 No doubt your equipment has improved, and that has been made necessary by the growth of business, and the operating expenses has stood almost all of that increase.

Q. Your idea is that the capital account should have been charged with that?

A. No, sir. But my idea is it has not been charged.

Q. Have you ever known of it being so charged?

A. Oh, yes. In England they do that. In England they are obliged to charge anything that increases the value of the property, to the capital account. If they put in a culvert where one was not there before, it must be charged to the capital account.

Q. In England, I understand, the earnings are very much larger than in this country.

A. No, sir.

Q. It is much more thickly populated communities?

A. Yes, sir.

Q. And the law absolutely forbids the return above a certain amount, and absolutely requires everything above that to go into the property?

A. On some of the roads. Most of them are struggling to pay dividends; they are overburdened with capitalization.

Q. Someone told me that in order to take care of the service in England they had been granted permission to make investments in hotels as part of the railroad property itself: do you know anything about that?

A. No, sir, except that the London and Northwestern,
4235 which operates more hotels than any railroad in England, is struggling hard to pay six per cent on its stock.

Q. After making an investment in the improvements, they are capitalized, and they pay dividends on them?

A. If they buy a hotel they charge it to capital account.

Q. They do not do that in the United States?

A. Fortunately not.

Q. These equipment expenses are paid in the form of notes which are finally paid off?

A. With some roads. There is no question in my mind, and I do not think in any man's who has studied the proposition, that the value of railroads has been vastly enhanced by charges made to operating expenses. I do not say that is not a wise thing to do. It is conservative. And I am very much in favor of it. But I do mean to say that a large amount which has been charged to operating expenses could, in my judgment, have been properly charged to capital account, if it had been the policy to do so.

Q. The final result of your Exhibit 21 is simply a generalization of the situation, not applicable to any specific criticism you make of our accounts?

A. No sir.

Q. Take your Exhibit 22: that seems to be a statement showing the number of railroads per hundred miles of territory and per 10,000 inhabitants in certain states, and population per mile of road, June, 1904?

A. Yes sir.

Q. What is the purpose of that? How does it bear upon anything in this case?

A. To show the density of traffic in Missouri as compared with numerous surrounding states.

4236 Q. How does that bear upon anything that is involved here?

A. It shows that the density in Missouri, per mile of road, population per mile of road, is greater in the State of Missouri than in any of the other states mentioned on the exhibit, except Illinois and Ohio.

Q. What is the difference between Illinois and Missouri?

A. In Illinois the population per mile of road is 443, and in Missouri it is 431.

Q. How are Indiana and Ohio?

A. Ohio, 483, and Indiana 389.

Q. Is there anything in that exhibit that bears upon or affects any of our exhibits in this case?

A. No sir.

Q. That is another exhibit which is put in just as a sort of generalization?

A. Yes sir, and to show statistical information relating to the country which the road traverses.

Q. How does that compare—as a matter of curiosity—with New York: in a general way, if you have not the figures?

A. No sir, I have not the figures.

Q. Or with Pennsylvania?

A. I have not the figures.

Q. Can you give it for Massachusetts?

A. No sir. I suppose all the states you mention would be a great deal higher than any of the states here (indicating exhibit).

4237 Q. Turn to your Exhibit 23: what is that?

A. That is a statement of the revenue per ton per mile, in cents, under the rates fixed by the Act of 1905.

Q. From where did you get that information?

A. We got it from the Act, and the weight used in the case of live stock, based upon the minimum rates prescribed by the Board of Railroad & Warehouse Commissioners on a thirty-six foot car. The figures on agricultural implements, grain, etc., are based upon the carload minima fixed by the Act of 1905.

Q. That is to say, according to your Exhibit No. 19, the average earnings from interstate freight per ton per mile, was 6.67 cents?

A. From interstate carload freight, 6¾ mills.

Q. Then you have prepared this statement upon the basis of which you speak, as to what the revenue would be per ton per mile, charged under the Act, for the different products, in 1905?

A. The different rates fixed by the Act of 1905, yes.

Q. And how did you figure it out, in order to reach this result?

A. We took the rates.

Q. You took the rates?

A. Yes sir.

Q. How did you reduce it to per ton per mile?

A. The Act fixed the mileage in a sequence of twenty-five miles, fifty miles, seventy-five miles, and so on.

Q. You got the number of miles and the rate in that way?

4238 A. Yes sir.

Q. How did you get the number of tons?

A. We got the number of tons from the minimum weight prescribed by the Board of Railroad & Warehouse Commissioners for a 36-foot car, in the case of livestock. In the case of agricultural implements, and also grain and other items included with grain, the minimum is fixed by the Act of 1905.

Q. You got your minimum weight in that way?

A. Yes sir.

Q. You got your total number of tons in what way? Take one car, for instance, you would divide the number of miles traveled?

A. Yes sir.

Q. Take one car, and assume it was loaded to the minimum weight, and you would divide the number of miles, and in that way figure out the rate?

A. Of course, if there was less than the minimum weight in the car, the amount earned by the company would be increased.

Q. What was the minimum rate, for instance, for horses and mules?

A. I have not those figures before me.

The MASTER:

Q. Exhibit 23 has no reference at all to the actual business done by the railroad company?

A. No sir.

Q. It is theoretical, drawn from the Act?

A. Yes sir.

Mr. HAGERMAN:

Q. Let me see if I understand: In order to ascertain how

4239 much revenue per ton per mile under that Act would be received, you took the number of miles, and the rates authorized to be charged, from the face of the Act, on these particular articles?

A. Yes sir.

Q. And then you ascertained the number of tons that would be carried at the minimum weight, under the Act?

A. Yes sir.

Q. And in that way, given those sums, you figured out upon that theory how much per ton per mile you would receive?

A. Yes sir.

Q. And then you compared that with the average interstate rate?

A. Yes sir.

Q. Why didn't you make the comparison on interstate charges with the particular things? That is, opposite "Horses and mules," where you have 2.27, why didn't you put what it would be under interstate?

A. We did not segregate in the analysis of the figures for the preparation of Exhibit 19, revenue derived from the different classes of freight, other than a separation of state and interstate, carload and less than carload.

Q. Yes, but you could have done it. You had all the opportunities, and every day the opportunity has been open to you to figure it. What I want to know is, if this exhibit is answering any purpose in this case, as a theory, why you should compile it under this Act, assuming the minimum weight would be the tonnage
4240 carried that distance, and get the rate per ton per mile on these different commodities, and compare it with the average of the interstate business of all kinds and character?

A. Simply the volume of work involved. That is the only reason.

Q. That is the only reason?

A. Yes sir.

Q. There would have been no trouble, even for a day, if you wanted to take it, or for three days, to have made the comparison, as between those particular commodities carried as interstate shipments, would there?

A. Only the volume of work involved.

Q. And the purpose you have in view, in presenting this Exhibit 23, is to show that the revenue per ton per mile allowed to the State practically for these particular products, as fixed by the Act of 1905, was more than you would have received from the interstate business, wasn't it?

A. No sir, I don't know that I would say that was the purpose.

Q. What was the purpose?

A. The purpose of the preparation of Exhibit 23 was to show what revenue would be realized per ton per mile on the different commodities affected by the Act of 1905. We have made a comparison—I did so in my testimony—between those rates and the rates which were received on all of the interstate business handled by the company.

Q. In your note on this exhibit, you compare with the aver-
4241 age received upon everything?

A. Yes sir. That note was put upon there afterwards, after the exhibit was prepared.

Q. I don't know that any person can object to your preparing a table like that, theoretically, of course, for the purpose of showing the per ton per mile earnings.

But, if you are doing it for the purpose of comparing it with what you get for the interstate business, won't you admit that it would not be fair to compare it with the average, but that you should compare it with the same class of commodity in the interstate business?

A. I would not say it was unfair, but I would say it was fairer to compare it with the commodities.

Q. If it were put up to you to give a fair comparison, what you would do would be to compare the different commodities, state with interstate, wouldn't you?

A. I think that would be the fairest comparison you could make.

Q. Can you give us any idea of the waste tonnage in a car containing these different commodities, upon the theory upon which you took it?

A. You mean as shown by Exhibit No. 23?

Q. Yes. For instance, take horses and mules: what is the capacity of the car?

A. I do not think you would say there was any lost space when the car is moving at its minimum weight. I doubt if you would say, in the railroad business, that there was any waste space there.

4242 Q. Both you and Mr. Dodridge spoke about a certain class of freight in which six tons would be carried in cars with a capacity of thirty tons—I may be wrong about those figures, but you understand what I mean?

A. The difference would be between the minimum and the maximum.

Q. What was the difference between the minimum and maximum in tonnage?

A. The maximum capacity varies with the car.

Q. What is the difference in the cars? On live stock you take the minimum on a 36-foot car. What is the maximum car in size?

A. I cannot tell you that.

Q. What is the difference between the maximum and the minimum weights of the 36-foot car, as prescribed by the Board of Railroad and Warehouse Commissioners.

A. I cannot tell you that.

Q. In all other cases, except live stock, you figure on the carload minimum fixed by the act of 1905, don't you?

A. Yes, sir.

Q. What is the maximum?

A. The maximum will vary from being the minimum in some cases up to 80,000 pounds, or possibly one hundred thousand pounds. I do not think, however, you have any one hundred thousand pound cars on the Missouri Pacific.

Q. What effect would it have upon these figures if you carried more than the minimum weight in these cars? Would it in-

4243 crease or decrease your figures?

A. I think per ton per mile it would be about the same.

Q. That is to say, if the car had a great deal more waste space capacity, which you actually filled, there still would not be any difference per ton per mile?

A. If the rate is the same, and my impression is—I am not sure of that—the rate of excess over the minimum is the same; if so, then the earnings per ton per mile would be the same.

Q. It would not be affected at all?

A. Not the rate per ton per mile.

Q. What magic is there in the words "per ton per mile" in that situation? Is there any other way of figuring it? How about the gross revenue, or the revenue per ton?

A. The revenue per ton would be the same, if the revenue per ton

per mile would be the same. On that particular item you speak of, the earnings per car, of course, would be different.

Q. The earnings per revenue train mile would be considerably different?

A. A good many other questions would enter into that.

Q. It would be different.

A. If you handle the same number of cars on a train, the earnings would be different.

Q. Have you any figures showing what the interstate rate is for horses and mules, for any of these distances that you tabulated here in Exhibit 23?

A. There are no interstate rates that are fixed. What I mean by that is, the interstate rates vary with almost every shipment.

4244 It is the proportion which happens to be allotted to Missouri, apportioned over the mileage the shipment represents.

Q. However it is shown, and whether you say there is or is not an interstate rate, have you anything we can set opposite these items, "Horses and Mules," for the respective distances set forth in the first column, "Amount received for interstate shipments per ton per mile?"

A. No, sir. Only the figures shown by Exhibit 19, which is "All freight."

Q. And that would be simply an average?

A. That would be an average.

Q. An average of all classes of freight?

A. Yes, sir. An average of all classes of freight.

Q. What are some of the cheaper commodities, so far as the production of revenue per ton per mile to the railroad company is concerned? What is the stuff for which they receive the least revenue per ton per mile?

A. Coal, I guess, would be the least.

The MASTER:

Q. Of the commodities included in the Act of 1905?

Mr. HAGERMAN: No, sir. Of all commodities.

A. Lumber would be cheap.

Q. What else?

A. There are some of these things in the Act of 1905. Some of your cement rates in Missouri are very cheap.

Q. That is where we are charging less than the Act allows, for certain reasons?

4245 A. Yes, sir. Stone, sand and that class of commodities.

Q. For a distance of twenty-five miles, horses and mules, what in your judgment, even if you hanen't any figures, would be the interstate rate per ton per mile?

A. On horses and mules?

Q. Yes, Start one mile east of East St. Louis, and take it out to Pacific, and get it within the fifty mile limit, and how would it compare?

A. I cannot give you any basis on that. But I would say take all the interstate shipments of horses and mules made by the Missouri

Pacific during the year 1905, and you would find the revenue per mile was less than the rates fixed by the Act of 1905.

Q. But there would not be any such difference as you have noted in this last note?

A. No, sir, I don't think there would be such a difference.

Q. In this tabulation you have made here, there is no way of averaging, because this is entirely theoretical, and made upon the Act?

A. I do not think you can quite say it is theoretical. I think it is fixed by the Act, definitely.

Q. That is what I would call theory, as distinguished from fact. I am not daying that in the sense that it is not mathematically in fact based upon tthe Act; but it represents a theory. That is to say, you have not anything to show how these different classes of commodities were shipped, and what proportion of the whole

4246 went twenty-five miles, and what proportion went 350 miles, have you?

A. No, sir.

Q. So you could not give us even an average on these commodities?

A. Exhibit 19 shows the average distance of all the freight.

Q. That is all carload stuff, but not these commodities?

A. No, sir.

Q. And so, if you had desired to compare on Exhibit 23 the average per ton per mile, that could have been recei-ed under the rates fixed by the Act of 1905, according to the theory you have adopted, with the actual rates that for those distances were received on interstate shipments in Missouri, it would have been only a question of work for you to have done that: is that right?

A. Yes, sir.

Q. And it would have been a very different result than what is shown by Exhibit No. 23?

A. It would not have any relation to Exhibition 23.

Q. But it would be a very different result than that shown by Exhibit No. 23, which contains the poison, to my mind, contained in your last note?

A. No, sir. It would be less.

Q. You still think it would be less than 6.67?

A. Yes, including cement, sand, stone, etc., upon which you have pretty low rates.

Q. Regardless of whether less or more, or whether to get

4247 it less, you had to adopt an average by putting in some other commodity, the comparison would not be anything as compared with the right figures; if you compared it in that way, it would have changed the entire structure of the document?

A. It would be an entirely different document. It would not change this document. But if you had the revenue of these different classes, to compare, undoubtedly many of the comparisons would be different from these figures shown by Exhibit 19.

Q. And would render the last note on the page a nullity, and dispense with it altogether?

A. It might change it. You might dispense with it.

Q. Dispense with it, because it would show a different figure, whether greater or less?

A. If you compared each item, there would be no object in comparing the whole.

Q. And the comparison of each item was only a question of work?

A. That is all. The more thoroughly you go into these things, and the more detailed analysis you have, the more exact comparisons you can have, of course, and the nearer to the facts you can get.

Q. Let us take this thing of a comparison on a ton mile basis between state and interstate, for just a moment, Mr. Ludlam; the only thing you compare is the number of miles in Missouri?

A. Yes, sir.

Q. With the number of miles of state freight carried?

4248 A. Yes, sir.

Q. Of course that has got to be in Missouri?

A. Yes, sir.

Q. Is that a fair comparison per ton per mile, assuming the shipment came one thousand and fifty miles outside of the state, and one hundred and five miles was inside the state?

A. Yes, sir. My idea is that by reducing it to a per ton per mile basis, you equalize that difference.

Q. But whenever you reduce it to a per ton per mile basis, the longer haul the less the amount per ton per mile in the way of expense?

A. Up to a certain limit. There is a limit to that decrease in expense.

But I would not say there was a limit to the decrease in the revenue.

Q. What looks wrong to me is that the haul may be 1050 miles outside of the state, and 105 inside of the state, and you compare with your 105 miles, and eliminate nine-tenths of the whole haul.

A. No, sir. Pardon me.

Q. Why don't you?

A. That is what you wanted to do this morning when you wanted to make your comparison on the ton basis. Then you were comparing a ton hauled 105 miles with a ton hauled 50 miles. But when I reduce it to per ton per mile, I get a common unit which permits an intelligent comparison, in my judgment.

Q. What would you give as the total terminal charge?

4249 A. I estimated it roughly, speaking of the originating and terminating terminal, from seven to ten cents per ton.

Q. Calling it ten cents, to make it in round numbers, the longer the haul, the more that is distributed?

A. Yes, sir, there is no question about that.

Q. Take it for a haul of one hundred miles, that would be what?

A. One tenth of a cent per mile.

Q. Suppose it went one thousand miles, what would it be per ton per mile for the distribution of that item alone?

A. That one particular item would be one one-hundredth of one cent.

Q. Does it make the same difference about the distance you go, about working out that expense per ton per mile?

A. Not in the revenue. You were talking about revenue in Exhibit 19. It does in the expense, up to a certain point. But there would be very little decrease per ton per mile in the expense of a shipment that went one thousand miles, as compared with a shipment that went, say, one hundred miles.

Q. Let us go back for a moment to Exhibit 23.

A. I think there is a limit to your decrease of expense, and when you take into consideration only that originating terminal, you take only a feature of the cost, because that interstate shipment going one thousand miles, if you please; is running into another terminal every one hundred miles; and, while that terminal expense is not as great as that of the originating or terminating terminal, it is still a large item.

4250 Q. That is a question of the comparison of amount; but as between two fixed terminals, which you distribute over the system, it does seem to me that the entire vice of your comparing expenses in the manner in which you do, lies in the fact that you do not recognize that the longer your haul the more you distribute per ton per mile, and lessen the cost on the interstate shipment.

A. I beg your pardon, Mr. Hagerman, but we do, in Exhibits we have prepared. We allow for all that. And we make, what we consider, according to our judgment, a very liberal allowance.

Q. I will take, then, instead of your ten cents that w- used for purposes of illustration, five cents, as the extra cost of these fixed terminals, for what it would be over your interstate shipment. That five cents would be apportioned in the same way. When it went on an interstate shipment, going one hundred miles, it would be how much? One tenth of that?

A. One one-hundredth of that.

Q. Take it for ten miles first. What would it be for that?

A. It would be one-tenth of that for ten miles.

Q. And it is distributed into one one hundredth part, if it went one hundred miles?

A. Yes, sir.

4251 Q. Now let us see if the question of distance does not enter into the rate: Isn't it the whole theory of the Act of 1905 that the longer the haul the less the rate per ton per mile?

A. Yes, sir.

Q. Does not the question of distance enter into the question of rates?

A. Unquestionably.

Q. I observe in the first item of Exhibit No. 23, Horses and Mules, that it costs so much for twenty-five miles, and so much for a hundred miles, and so on?

A. Yes, sir. I do not wish you to misunderstand my statement. What I said was, that that decrease in expense per ton per mile ceased after it reached a certain distance. I do not mean to say

that the terminal expense per ton per mile is not greater on a shipment that goes five miles than it is on a shipment that goes fifty miles. But I do mean to say that after a shipment goes a certain distance—I won't say what that distance is—but assuming it roughly to be somewhere between two hundred and three hundred miles, the expense per ton per mile does not decrease beyond that point.

Q. But, as a matter of fact, when you come to charge your expense, or your receipts—take the case I illustrated of 1050 miles outside the state and 105 miles inside the state there is ten percent of it practically from outside the state, and that cost had been distributed over the entire distance, thereby you do not charge, and the account does not stand the same, as if that started just across the state line, and went 105 miles in the state?

4252 A. Mr. Hagerman, I do not think any freight gets on to the Missouri Pacific Railway in Missouri, from St. Louis, that does not have almost as large a terminal expense out of St. Louis as it does at the point of origin, whether that is one thousand miles east or one hundred miles east.

There is hardly any interstate freight on the Missouri Pacific Railway, passing through the state, originating in the state and terminating outside the state, or vice versa, that does not use the Kansas City or St. Louis terminals—practically none. Of course, those are the extensive terminals of the Missouri Pacific Railway.

In my judgment, it costs a good deal more to handle a carload or a ton of interstate freight at St. Louis or Kansas City, than it does a carload or a ton of state freight at any of the smaller stations in this state—on the average.

Q. I am talking about interstate shipments, and I will give you a concrete case at Kansas City: Take, for instance, a shipment coming in on the Milwaukee line, which terminates at Kansas City, and which is going to Denver by the Union Pacific Road. There is, of course, some service in delivering that car from the Milwaukee to the Union Pacific Road?

A. Yes, sir.

Q. The result is that at the track connection that car has to *ne* put into the Union Pacific train, and away it goes?

A. If it does, that is the first case I ever heard of.

Q. Well, what is it that is done?

A. The car would be taken out of the Chicago, Milwaukee & St. Paul train, inspected, oiled, and set on a siding until a

4253 train would be ready to put it in, and then it would be switched into that train.

Q. Outside of the inspection of the car, I don't see any difference between what I said and what you say.

A. I would like to continue my answer, to get it straight.

Q. Go ahead.

A. Missouri would be allowed twenty-seven miles, on a mileage basis. Whereas, all the terminal expenses at Kansas City which unquestionably would amount to a large part of the twenty seven miles' revenue, is chargeable to Missouri.

Q. I wasn't going to give the twenty-seven miles' revenue, because it cuts no figure. But I was talking about the Union Pacific Railroad, that would not have one-half a mile in Missouri.

Mr. LADD: Mr. Hagerman said Union Pacific Railroad, and not Missouri Pacific.

Mr. HAGERMAN:

Q. I am not quibbling with you, or trying to put in on the basis of there not being the question of inspecting the car: But when the Milwaukee car got there into Kansas City, the thing it did was to set the car out and on to the track connection of the Union Pacific road, and that was the end of it, outside of the incidental services, in the way of oiling and inspecting the car, to see it was all right?

A. That is the expense you say the Milwaukee Company would have?

Q. I don't care who would have it; that is a terminal ex-
4254 pense upon that property at Kansas City, that would be distributed in some kind of form upon the entire line of the shipment from Chicago to Denver: that would be true?

A. No, sir. It would be distributed only between the last terminal and the next terminal, if it were an interstate shipment going one thousand miles.

Q. What I want to get at is the difference between that and the terminal charge on a shipment originating at Kansas City. For instance, take a shipment originating at a packing-house, probably two or three miles away from the Milwaukee tracks. They want to send in a Milwaukee car for a load of meat. It has to be hauled that distance; the car has to await the convenience of the packer to be loaded; it has to get back to the Milwaukee tracks, and after it gets back to the Milwaukee tracks, and before it starts out, won't there be all the expense that was attached to the other car, and also this additional expense, in the local shipment?

A. The additional expense, in my judgment, on the average, speaking generally, and broadly, and not applying it to any particular case, would be the additional expense of setting, out an empty car for the loading. I think that is an additional expense at those stations, applicable to freight originating or terminating at those stations, which does not apply to the through freight.

Q. What I am getting at is, suppose that that additional item of expense—and call it ten cents for purposes of illustration (as for that purpose we can call it what we please), and if that shipment was going one hundred miles, one tenth of one cent per ton per mile would be distributed through the one hundred miles, wouldn't it?

4255 A. Yes, sir.

Q. If it were going one thousand miles, it would not be one-hundredth, would it?

A. That particular terminal would not.

Q. How much less would that be?

A. That would be one-hundredth of a cent per ton per mile. But

that particular shipment, going one thousand miles, would run into another terminal, and another, and another, and so on.

Q. In order to get it down where we won't have so many terminals, let us put it at two hundred miles: then what would be the difference?

A. If you apply that one terminal expense against a shipment going one hundred miles, it would be one-tenth of a cent per mile.

Q. And one-half of that, if going two hundred miles?

A. One-twentieth of a cent per ton per mile.

Q. Under your system of figuring, you would apply that one-twentieth of a cent, because the average is one hundred miles in Missouri, wouldn't you?

A. Where we figure the expenses, we estimate that the terminal expenses are twice as much on state freight per ton per mile, as on interstate, for that very reason.

Q. I am trying to get at it without any estimate or assumption that it costs more: but, whatever there is in the way of fixed terminal expenses, for an interstate shipment, that is distributed, as a practical result, on the per ton per mile basis, in accordance with the number of miles carried?

A. Unquestionably.

4256 Q. And the longer the distance, the less per ton it costs?

A. The less per ton per mile for the originating terminal expense; after a certain distance I would not say they would decrease.

Q. Up to a certain distance?

A. Yes, sir. Up to a certain point; I concede that. I have made that statement.

Q. I think you will concede anything that is fair, if you think it is fair.

A. I make the statement. I did not mean it as a concession.

Q. I am dealing with you as an honest man, only trying to express your opinion; and when we get through we will know what our differences are.

In that way you have distributed your extra terminal cost, whatever it may be, and reduced it in accordance with the number of miles run?

A. Yes, sir.

Q. But when you come to tabulate it, in your estimate, you allow only 105 miles, and yet the per ton per mile basis is figured out on the long haul: isn't that the necessary result?

A. Speaking of expense or revenue?

Q. Either one. I am speaking of expense now.

A. Exhibit 19 does not have anything to do with expense, nor does Exhibit 23.

Q. I don't care what exhibit it comes in. It is material to my question. We will deal with it from the standpoint of

4257 expenses: isn't that the result? On the basis of having gone 105 miles in Missouri, you have charged to us per ton per mile the small amount estimated from the length of the long haul?

A. You are speaking of the expenses?

Q. Yes.

A. We have charged against the state freight double as much per ton per mile for terminal expenses as we have against the interstate freight. We have not made any charges against interstate. We have said the state expense was double.

Q. I won't call it charges, or anything of that kind; but what I mean to say is the practical result of your averaging is that?

A. No, sir. It is just the opposite. Because we say in our statement that we allow for the terminal expenses to be twice as much per ton per mile on state freight as the terminal expenses on the interstate freight. Therefore, we concede the very point you claim.

Q. I can criticize your statements, when I come to them, from their own standpoint: but what I want to get at is, that you do figure that every interstate shipment we make is carried 105 miles in the state of Missouri?

A. Yes, sir.

Q. And yet the expenses that might be figured out per ton per mile, are not on the basis that one hundred and five miles was the entire length of the haul, but it might have been 205 or 305 miles: Isn't that necessarily the result of the way you get the figures?

4258 A. No, sir. We don't think so.

Q. Because you get in Missouri only such proportion of the entire revenue, or bear such proportion, as the distance in Missouri bears to the whole shipment?

A. Yes, sir.

At this point the further hearing of testimony herein was adjourned until to-morrow, Friday, March 1, 1907, then to be resumed at the same place, at ten o'clock in the forenoon.

____ ____,
Special Master.

4259 ST. LOUIS, MISSOURI, FRIDAY, *March* 1, 1907.

Met pursuant to adjournment as above on March 1, 1907, at 2 o'clock P. M.

Present: Hon. F. L. Schofield, Special Master.

Mr. Frank Hagerman appeared in behalf of the Complainant.

Messrs. S. B. Ladd and John Kennish appeared in behalf of the Defendant.

The following proceedings were had:

The cross-examination of Mr. C. S. Ludlam, continued as follows:

By Mr. F. HAGERMAN:

Q. The state rates established by this act in question are based on a given length of haul, aren't they?

A. Yes, sir.

Q. How about interstate? Aren't they usually based on very long hauls?

A. Rates you mean, Mr. Hagerman?

Q. Yes, sir. The rates.

A. Many of the interstate rates are based on long hauls.

Q. That is the rule generally, isn't it?

A. Longer than state rates. I don't know that rates are based upon the length of the haul so much as on the general proposition how much they can get, for the reason that the interstate rates vary continually.

Q. So it becomes quite a difficult matter to make a fair comparison as between state and interstate rates, because of that difference in the things upon which they are based?

4260 A. Except as you do it upon a per ton per mile basis.

Q. Let us see about the ton per mile basis: as I gather from your Exhibit 19 you figure out there the basis to be on state freight 52 miles as the average haul: that is right, isn't it?

A. Yes, sir.

Q. Now as to the interstate freight, you figure out the average haul to be 105 miles?

A. In the state of Missouri.

Q. The difference between those two cases is this: that in the case of the state freight the 52 miles is the entire haul?

A. Yes, sir.

Q. Whereas the average of 105 miles for interstate freight is only a proportion of the through haul?

A. Only the proportion that applies to Missouri.

Q. That is, the entire haul might have been 205 or 2,005 miles, depending altogether upon the distance it came?

A. It would be considerably in excess of 105 miles. Of course it would not reach 2,000 miles, that is, in the case of the Missouri Pacific.

Q. I presume not because it is too near the center of the country, but I was just giving an illustration.

A. The average haul on the system of the revenue freight during the year ending June 30th, was 237.

Q. That is interstate freight, regardless of the limitations of the state of Missouri?

4261 A. That is the entire tonnage of the Missouri Pacific, that would include state and interstate, all the business of the system.

Q. That is 237?

A. Yes, sir, as I recall it. It is shown in the annual report of the Company.

Q. Is there any separation of that as between state and interstate?

A. No, sir.

Q. And still you think in a comparison of revenue per ton per mile that on state 100 mile rate is fair as a basis of comparison with an interstate rate running only 105 miles in the state, although it may be 1/10 of the interstate haul?

A. When you reduce it to per ton per mile, yes, sir.

Q. Wouldn't it be necessary, in order to make any kind of a fair comparison, to make a similar extension upon the state haul, by adding a certain increase for every 25 miles and calculating the

revenue upon that, before you could fairly compare the state and the interstate revenue per ton per mile?

A. No, sir. I don't think so.

Q. Why wouldn't that be right? If you are going to do it just as a fair comparison, to ascertain the result?

A. Because I think it is a fairer comparison to compare one fact with another fact than to compare a fact with a supposition.

4262 Q. Take this state of facts: a carload of wheat 20 tons with an average of 52 miles; apply to that the six cents rate fixed by the Act of 1905, and you have a revenue per ton per mile of 2.3 cents, wouldn't you?

A. Yes, sir.

Q. The average length of haul of freight on the Missouri Pacific system was about 240 miles?

A. Yes, sir, as I recall it.

Q. That includes a large proportion of the short haul and the Missouri Pacific proportion of the haul only?

A. That includes all the freight handled on the Missouri Pacific system.

Q. But that includes the short haul freight and only the Missouri Pacific proportion of the haul, doesn't it?

A. The entire mileage of the system?

Q. Yes.

A. Yes, sir. Only the Missouri Pacific proportion.

Q. That is to say, that 240 miles' average is not based upon the entire length of the interstate haul, no matter what road it comes from?

A. No, sir.

Q. But that is the average haul upon the Missouri Pacific system?

A. Yes, sir.

Q. What would you say it would be safe to assume the interstate freight to average in hauling from the point of origin to final destination, regardless of what roads it passed over?

4263 A. On the Missouri Pacific System?

Q. No, sir. In the entire interstate. Would twice 240 be an unfair average?

A. I could only approximate that in the most general way. I should say twice 240 miles would be too much.

Q. Not very much out of the way, would it?

A. I would say, if I were just to make a guess, that 350 miles would be somewhere in the neighborhood.

Q. Let us assume it would be twice that much, twice 240 miles, the Missouri rates under the Act of 1905 on the shipment I gave you, extended to that distance would be 14½ cents, or only 6 mills per ton per mile, wouldn't it?

A. Yes, sir.

Q. That would be as against 2.3 cents carried 52 miles?

A. Against what?

Q. Against 2.3 cents per ton per mile if the carriage was only 52 miles: that would be right?

A. Yes, sir.

Q. Don't you think if you were going to compare per ton per mile in the way of revenue, as between state and interstate, that the fair thing would be to make that kind of an extension in the comparison of rates? Irrespective of this case, but just fairly comparing the rates, they being based as you say, upon entirely different considerations, in the one case, that of the state, the law fixing it arbitrarily; and the other depending upon what you can get, and other conditions?

4264 A. No, sir, I don't think so, Mr. Hagerman. Because you would be assuming then a condition that does not exist.

Q. In what respect?

A. That the state freight moves 350 miles, or 480 miles.

Q. Is that the only reason?

A. And I do not think the interstate business moves 480 miles.

Q. Supposing the assumption was 350 miles as you gave it instead of 480 miles, what difference would that make as to the 14½ cents or 6 mills per ton per mile? I gave you the 480 because it was a simple example. You think taking all the roads into consideration the average would be 350?

A. I just gave that as a rough guess.

Q. Suppose we extended the local rate to the 350 miles, what would that aggregate?

A. 350 miles on grain is 6½ mills per ton per mile.

Q. That answers the purpose for my comparison. You do not think that would be a fair way of comparing rates?

A. I think it would be infinitely fairer to compare a 350 mile haul with a 350 mile haul. The reason I say it is not fair to compare a state shipment, with an average haul of 52 miles, with an estimated haul of an interstate shipment of 350 miles, is because the state does not move the 350 miles. That necessarily involves the contention whether I think you would make more per ton per mile on a 350 mile haul at a rate of 6½ mills per ton per mile than you would make per ton per mile on a shorter haul for which you received a larger revenue per ton per mile.

4265 Q. Now let us get down to the question of comparison, because I am simply dealing with it from the standpoint of a fair way to compare the rates.

Your system of simply arriving at the per ton per mile is a system of averaging and placing practically every thing on a level, isn't it?

A. Well, that is one way of expressing it.

Q. Isn't that a fair way of expressing it?

A. Hardly.

Q. You do not distinguish between the commodities?

A. I would say, I think rather it reduces it to a common unit that permitted of intelligent comparison.

Q. You call it "common unit" and I call it "reducing things by a system of averages to a common level," and in ordinary parlance that expression is not far out of the way, is it?

A. I like my own better.

Q. I can understand mine better, is all.

Now the result is, that when you do reduce it down to the ton per mile you have taken and averaged all the commodities regardless of their character: You have simply had the number of miles and the number of tons hauled and out of that you get an entire average, don't you?

A. With the exception that we separate of course state and interstate, and carload and less than carload.

Q. I know that is a subdivision you make, because in each class you find out the same way, whether carload or less than car-
4266 load, and whether state or interstate. What you do as to the commodities, regardless of the character of the commodities, regardless of the rates you get on the commodities, what you do is to get the total number of miles, the total number of tons, and the total amount of revenue received?

A. Yes sir. What we try to do is to reduce the interstate carloads to a unit that permits of comparison with the state carloads. And the same way with the interstate less than carload and the state less than carload.

Q. But after all, it is adopting an average regardless of the commodities, regardless of the defference in the amounts you receive, isn't it?

A. Of course that includes all the carload shipments in the interstate business and it also includes all the carload shipments in the state business. In other words, it puts all the carload state business down to one figure and all the interstate carload business down to another figure.

Q. Let us take it with that limitation, because that is the way you prepared your statement: you have subdivided between carload and less than carload and between state and interstate?

A. Yes, sir. But the point I want to make is this: whether it is inequitable, if you please, to compare all the carloads, or to reduce all the carloads to one unit, it becomes equitable when the same system is followed in both state and interstate, for the reason that the same variation will exist between the carload business in each class of business.

4267 Q. To make my statement more specific, in less than carload you are ascertaining for state business and also for interstate business, the rate you received per ton per mile, and that reduces things to a common level upon the basis of an average, regardless of the character of the commodity that is carried, doesn't it?

A. You mean both state and interstate?

Q. Yes. Regardless of their character.

A. To a common unit, regardless of the character, in both state and interstate.

Q. And regardless of the amount received on one particular commodity as against another. That is not taken into consideration, is it?

A. I think it is to the extent you will find both classes of commodities in both the state and interstate. The state does not have one particular class of commodities and the interstate another particular class of commodities, but they both average the same.

Q. But let us confine ourselves to less than carload lots. The fact that upon wheat you get one price and upon some other commodity you get another amount of revenue, that is not taken into consideration in your calculation at all?

A. That is not a very good illustration of less than carload lots.

Q. Well take something else. Any commodity you want.

A. Take coffee and dry goods. You will find both coffee and dry goods in carloads and less than carloads.

4268 Q. Certainly. But reducing it down upon one commodity you get a higher rate than upon another. That does not enter into it, except you have the sum total received?

A. On both classes, yes, sir.

Q. So you said before, in reducing to a ton mile basis you did not take into consideration, in this system of averages, the amount of waste space in the car, did you?

A. Not in either case.

Q. The ideal way, Mr. Ludlam, if it were practicable, or if the railroads kept their accounts that way, with this lawsuit in view, would be to keep track of each car, so as to have the kind of commodity and the vacant or unused space in the car, wouldn't it?

A. Yes, sir.

Q. That would be the ideal way?

A. Yes, sir.

Q. And without that we have all this system of averages and theorizing?

A. Now right there, I would like to say, that the same ratio of difference, however, must exist in each class of commodities, that is shown by the total of all the commodities in each class. That is to say, that if the less than carload state averages twice as much per ton per mile, there must be a preponderance of the articles that are carried in less than carload business both state and interstate, that average higher proportionately in the state business than they average in the interstate business.

4269 Q. In the final analysis, what we get down to, when you figure it your way, it is a system of averages, depending largely upon theoretical calculations, isn't it?

A. It is reducing the business to a common unit, upon an absolute tabulation of the transactions of the company. It is not theorizing in any sense. It is getting just as far away from that as possible.

Q. It is calculating upon a system of averages, without taking the actual facts into consideration?

A. It takes all the actual facts into consideration. The amount hauled, the weight, the distance hauled and so forth.

Q. You have just said you did not take those things into consideration.

A. If I did, I made a mistake——

Q. Let me get back to that?

A. Let me explain that, please. What I said was not taken into consideration, is the waste space.

Q. Let me see if the other thing is not true, because I did not

think we misunderstood each other. We may differ as to what would be the right method of comparing?

Given the number of tons of less than carload freight, the number of miles that the less than carload freight was carried, the lump sum of money received for all less than carload freight, you could get your calculation upon the basis that you figure it, without any other consideration; and that is the only way you get it?

4270 A. And a separation into state and interstate.

Q. Then I will separate my question: in the state freight, given all the tons that there are of less than carload freight, the total number of miles that the less than carload state freight has been carried, and all the money in a lump sum, without any division, that you have received for the less than carload state freight, your example is just one of division, isn't it?

A. Yes, sir. You get the average rate per ton per mile of state less than carload business from those figures.

Q. Is there any difference between us? That you did not, in arriving in your calculation, take into consideration the commodity or the lost space occupied in one car than in another. Does that enter into the calculation?

A. The space does not.

Q. Does the other thing?

A. The weight does.

Q. Only in the total number of tons?

A. Only in the total number of tons.

Q. That is as far as it goes?

A. Yes, sir.

Q. Now coming back to my original question with all this light before you, your opinion still is, notwithstanding you arrive at it in that way, it is fair, upon that theory, to compare the revenue received from the interstate as from the state freight; and you ought not to compare, based upon extending the state rates for a similar distance, as to what you receive?

4271 A. My judgment is that the comparison should be made upon the revenue per ton per mile.

Q. Is there anything radically wrong in making the comparison in the way I suggest, other than it is theoretical?

A. There are two things, as I see it, Mr. Hagerman. One is that it is theoretical; and the other is, that it involves a question as to whether the decrease in the rates fixed by the Act, as the length of the haul increased, are not excessive.

Q. How would that be, that is the rates are too high?

A. If there is not too much division between the short haul and the long haul.

Q. Under this particular act?

A. Under this particular act.

Q. Why is that so?

A. Because while the rate might be large enough to yield a remuneration for the haul of 52 miles, or the haul of 105 miles, and yield a large remuneration, it might not be large enough to yield a remuneration for the haul of 480 miles.

Q. In the case I put, modified by your average haul of 350 miles, in your way of comparing the rates, I am right about the result—that the revenue would be 2.3 cents, coming from your way of calculating; and from my way of comparing, the revenue would be 6½ mills, or about ¼?

A. Exhibit 23 shows that the revenue on grain per ton per mile under the act of 1905, on a 350 mile haul would be 6½ mills.

4272 Q. That is, something between ⅓ and ¼ of the method by which you arrived at the results, on your average of 52 miles. I do not care about arguing it, but I wanted to get in sharp contrast, what was the difference between the two theories. You are entitled to advance your theory but I am entitled to compare mine with yours:

According to your theory you would get per ton per mile three or four times as much per mile as you would according to my basis of comparison, wouldn't you?

A. You would get something over twice as much per ton per mile for the distance actually hauled as if you had hauled it 350 miles.

Q. Answer my question, whether my method of comparison would not yield per ton per mile from one-third to one-fourth what your method of comparison does: it would be six and one-half mills into three and two-tenths cents, wouldn't it?

A. If I understand your question correctly, as indicated by my last answer, it would.

Q. Let us pass from that now——

The MASTER: Just a moment, Mr. Ludlam, you are raising a question that so far as I remember has not been suggested up to

4273 this time in any of the hearings:

Do I understand you that there is a probable difference, or an actual difference, in the remuneration, or possible reasonableness of the remuneration allowed to the carrier under the act of 1905 for short hauls, as compared with long hauls? That whereas the remuneration might be abundant in the one case it would be very much smaller proportionately in the other?

A. No, sir. I was not trying to raise that question. What I said was——

Mr. HAGERMAN:

Q. Does the result of your statement raise the question?

A. What I was saying was, the comparison we have made was based upon the length of the haul, which our analysis of the statement showed the freight moved. Mr. Hagerman suggested that I compare that with the 350 mile haul. I said that would immediately raise the question in my mind whether the 350 miles or the 480 miles haul bore the same relation to the expense of the movement that the haul of 52 or 105 miles bore.

The MASTER:

Q. Have you an opinion as to whether the application of

4274 the act of 1905 would be more remunerative for long hauls that it would be for short hauls, taken as a whole, or vice versa?

A. No, sir, I have not, Judge. I have not considered that question.

Q. You have not figured that out at all?

A. I have not made the slightest calculation upon it. I had not thought of it, until Mr. Hagerman raised the point.

Mr. HAGERMAN:

Q. What opinion did you attempt to express to me when I did raise the question?

A. That an intelligent answer to your question would involve a consideration of that point, which I have not given it.

Q. You think that possibly, or probably, the extension of those rates to the three hundred and fifty miles distance would be unremunerative?

A. No, sir.

Q. Would be more than remunerative?

A. I will say this, off-hand, and without studying the matter, that I think the company would make more under the rates fixed by this act, for anything under a two hundred mile haul; that they would make more per ton per mile for anything under a two hundred mile haul than they would make for anything over a two hundred mile haul.

The MASTER:

Q. They would make more net money?

A. Yes, sir, that would be my impression. Now, I have not given that matter sufficient study to want to express that as a positive opinion; it is just a rough estimate.

4275 Mr. HAGERMAN:

Q. Without giving expression to a fixed opinion, because you have not studied it, your judgment is that to extend the state rates to the 350 mile haul, in the way I was seeking to compare them, would be to make a rate that would be absolutely unremunerative?

A. No, sir, my judgment off-hand would be that if you extended those rates to the 350 mile haul, you would get it down to about the same revenue you are now getting on your interstate business, and, while that would be remunerative, it would not be nearly so remunerative as the shorter haul now made on the state business.

The 350 mile here (indicating Exhibit) is almost exactly the same as they get on their interstate freight. I do not pretend to say they so not make money on their interstate business, because I think they have done so; but I think they make a great deal more on their state than on interstate business.

Q. At some place in your examination you made some deductions from Exhibit 8; that is to say, you gave a certain figure as the average loading: wasn't it in reference to that Exhibit?

A. Yes, sir.

Q. And how did you arrive at your average loading in that connection, by dividing the number of tons by the number of cars?

A. Yes, sir.

Q. In the same connection you quoted from the company's Annual Report, "17.4 tons?"

A. Yes, sir.

4276 Q. What does that represent, in the connection in which you used it?

A. That is the average number of tons of revenue freight in each loaded car.

Q. In what connection did you use the 17.4 tons?

A. I don't recall now, except that——

Q. Anyhow, the 17.4 tons quoted in that report, is the number of tons per loaded car mile?

A. It is so stated in the report.

Q. That is a very different thing from the method by which you arrived at the average loading, dividing the number of tons by the number of cars, regardless of the question of miles?

A. They do not either of them have any reference to the question of miles.

Q. What has the number of tons per loaded car mile to do with the situation? That is a different thing from the way you estimate?

A. It is the number of tons——

Q. It is the number of tons of all classes of freight, isn't it?

A. No sir, it is the number of tons of all revenue freight.

Q. Revenue freight carried one mile, and divided by the number of miles run by all cars?

A. All loaded cars.

Q. Isn't that a very different method of arriving at the average, than your method of dividing the number of tons by the num-

4277 ber of cars, regardless of these other considerations?

A. It is, to the extent that the figure taken from the company's annual report includes less than carload business, whereas Exhibit 8 covers carloads only.

Q. How, then, do you reach any comparison between the average of twenty-seven tons, which you spoke of in certain carload freight, as against the seventeen? How does it afford any comparison?

A. The comparison we tried to make was the loading of the state cars—Or, rather, the loading of the cars with state freight, as shown by Exhibit 8, which was twenty-seven tons, with the tons contained in the cars loaded with interstate freight, shown by the same Exhibit, which was 22½ tons. And in that connection reference was made to the average number of tons handled by the entire system.

Q. I don't want to do you any injustice, Mr. Ludlam, but I gathered from your testimony at the time you gave it that in one connection you were comparing the twenty-seven, on the basis you figured it, from Exhibit 8, of carloads of state freight, the average load, with the 17.4 tons, the average of all sorts of freight upon the system. And, if you did not answer it in that way, surely the lawyers for the state asked the question in that way. You did not mean to make that comparison, did you?

A. Only incidentally. The real comparison is intended to be made between interstate and state, as shown by Exhibit 8.

Q. Let us get down to this question: it would not be fair,
4278 giving you the benefit of every presumption you might make about 27 tons as representing an average, it would not be fair to compare that with the 17.4 found in the Annual Report, because averages are computed upon entirely different assumptions?

A. It would not be quite fair, because the 17.4 tons given in the Annual Report includes less than carload. But inasmuch as less than carload freight amounts to only 6 per cent, that difference would not nearly account for the difference shown in those figures and those shown in Exhibit 8.

Q. I know it would not be fair on that account. But did you think it would be fair to tell the Court that it would be fair to divide the number of tons carried by the number of cars used, and that a comparison of that would be fair, when the other end of the comparison was the number of tons per loaded car mile?

A. If from the number of tons per loaded car mile, there was eliminated the less than carload freight, it would be eminently fair.

Q. Why?

A. Because then both would be a statement of the number of tons contained in the loaded freight car.

Q. But in one case the number of tons of all classes of freight carried one mile is divided by the number of miles run by all cars, isn't it?

A. The number of ton miles of freight is divided by the number of cars run loaded, so your result is the same whether you take
4279 one car into 20 tons or you take 100 cars into 2,000 tons.

Q. I do not follow you, if it is the same. Let us see if it is the same. In the first case, that stated in the Annual Report, you ascertained the number of tons of all classes of freight which have been carried one mile: that is right?

A. Yes, sir, reduce it to the number of ton miles.

Q. Listen to my question. You get the advantage of me when you ring in this "ton mile" business. Let us get down to something I can understand. The number to be divided is the number of tons of all classes of freight carried one mile?

A. Yes, sir.

Q. And you divide it by the number of miles run by all cars?

A. By all loaded freight cars.

Q. Then the way you arrive at your average is to take the total number of tons, regardless of the question of miles, and divide it by the number of cars?

A. Yes, sir.

Q. And you say the result is the same?

A. Exactly.

Q. How does the 17.4 enter into the question of less than carloads?

A. Because the less than carload is included in the 17.4 and it is not included in the figures on Exhibit 8.

Q. That is, the 17.4 tons makes no distinction or separation as between less than carload and carload lots?

A. No, sir.

4280 Q. It is the average of the whole?
A. Yes, sir.
Q. Ascertained in the way of which I speak?
A. Yes, sir.
Q. Now I observe here in Exhibit 19, on page 7, the last item there of the total less than carload lots and carloads, the percentage of the total ton mile is 6.45: how does that compare with what it is on the entire system?
A. I have not seen any figures as to what it is on the entire system.
Q. Have you any method of comparing?
A. No, sir. Not from the information we have.
Q. Can you tell whether it would be 6 or 15 or 20 per cent, or approximate it.
A. In my judgment it would be under ten and I do not think it would vary from 6 very far. It might be a little more or a little less on some of the western Iron Mountain lines. But I am sure it would be less than ten per cent.
Q. Turn to Exhibit 25: What is the purpose of that Exhibit?
A. (After examining exhibit:) To show the less than carload business handled on the through trains of the Missouri Pacific.
Q. State or interstate?
A. We have no information to determine.
Q. Based upon what exhibit?
A. Based upon Exhibit 9.
Q. And that shows an average of what tonnage?
4281 A. It was stated on Exhibit 25, 11,990 pounds or less than 6 tons each.
Q. That is to say, upon those trains, upon that particular day, in less than carload lots, without any distinction between state or interstate business, the average load carried was less than 6 tons each?
A. On those cars.
Q. And what was the capacity of the cars?
A. Oh, I should imagine the capacity was somewhere from 20 to 40 tons.
Q. How much waste capacity in percentage would that be?
A. From 70 per cent up; 70, 80 or 90 per cent.
I want to correct my former statement and say that Exhibit No. 9 shows a distinction of those cars and that the great majority of them are inter-state freight.
Q. Where were those cars shipped from, St. Louis?
A. They were cars that were forwarded from St. Louis but the freight may have originated east or south or north of St. Louis.
Q. Why didn't you make that comparison with Exhibit 14-*a*?
A. One does not relate to the other and I do not see how they could be brought together.
Q. No. 9 relates to shipments from a large center like St. Louis, where there would be more apt to be inter-state shipments than from the places shown by Exhibit 14-*a*, which are interior points?
A. Yes, sir, some more.
4282 Q. One relates to a situation where it would be an extreme case as against the road, of through trains going out

mostly loaded with carload lots. A smaller number of less than carload lot cars upon trains going from St. Louis than from the interior points?

A. No, sir, I do not think there is an interior point on the Missouri Pacific Road where there are as many cars of less than carload freight forwarded as from St. Louis. And Exhibit No. 9 and this recapitulation of Exhibit No. 9, being Exhibit 25, embraces all of the cars of less than carload freight which were forwarded from St. Louis. And it shows how many of those cars were forwarded on the four Red Ball trains and how many were forwarded on the other or local trains. And that out of 411 cars forwarded from St. Louis during that week, all of them left St. Louis on your Red Ball or through trains, except 18.

Q. And what is the significance in the statement that No. 77 was not included in Exhibit 15?

A. Exhibit 15 purports to be a statement of the tonnage, state and inter-state freight, which was carried on the through trains between the points named. It was assumed that it was intended to show by this statement 15 what a small proportion of the state freight was handled on the through trains, or what are known as Red Ball trains.

Now the statement made on Exhibit 25 that Exhibit 15 did not include train No. 77 was made for the reason that as train No. 77 is a Joplin Division Red Ball train it would be immediately
4283 apparent that that train naturally would carry more state freight than the Colorado Red Ball or the St. Joe Red Ball or the Kansas City Red Ball, which are the trains embraced in Exhibit 15.

Q. Exhibit 25 purports to deal only with the through trains: isn't that right?

A. No, sir, Exhibit 25 is a recapitulation of all cars of merchandise forwarded from St. Louis during that week, and it shows that all but the 18 cars were forwarded on Red Ball freight trains.

Q. That is, the classes you designate as A, B, C and D were through trains and the others were local or way trains?

A. Were other than Red Ball trains. I think there were some forwarded on local trains and some on ordinary trains.

Q. In that connection, what criticism was it you made as to Exhibit 14-*a*?

A. I do not recall any criticism, Mr. Hagerman.

Q. Didn't you say you figured in some kind of a way that the carload lots of state freight averaged 27 tons and of the inter-state only 22 tons?

A. That was from Exhibit 8.

Q. The 88 stations were there in question, were they?

A. Yes, sir.

Q. And they include stations like Howard, Coleman, Sherman, Pacific, Myrick, Waverly and Hodge?

A. Yes, sir, and many others.

Q. Those are included?

A. Yes, sir.

4284 Q. Those ship almost entirely the product of the earth, such as sand, clay and coal, don't they?

A. I could not say.

Q. Don't you know that as a matter of fact, from your examination?

A. No, sir. I do not doubt it is so but personally I do not know it.

Q. And those shipments are in large carload lots of thirty or fifty tons?

A. I should assume that class of shipment would be.

Q. And that would raise the average weight of state carload freight naturally from such stations, wouldn't it?

A. Yes, sir.

Q. The inter-state freight shown on that exhibit was entirely of the second-class, wasn't it, consisting of Missouri live-stock, hay and flour?

A. It was entirely second-class.

Q. And did not include any of the heavy through carload lots handled on the through carload trains?

A. I cannot conceive of any class of through inter-state that would not be handled on the second-class inter-state.

Q. Did you make any comparison as to Exhibit 14-*a* and Exhibit 15, as to the weight of state and inter-state carload freight, as to the tonnage?

A. No, sir, because neither of them show the cars.

4285 Q. I do not care whether they show the cars or not. You have the papers and the right to get the number of the cars, and information was all turned over to you, so you could get it up. My question meant, if you did not, to include the question why didn't you try to ascertain as to these trains the difference in weight: did you or did you not attempt to ascertain it?

A. No sir, we did not attempt to ascertain it, and we do not know of any reason why we should. None occurred to us.

Q. It did not occur to you that the difference in the character of the stuff carried as compared with other stations——

A. What other stations?

Q. The products of the earth carried as local shipments.

A. The products of the earth might be carried as interstate shipments also, and are.

Q. But what I asked you was whether they were, as a matter of fact.

A. Yes sir, I think so. St. Louis, for instance, gets virtually all of its coal from Illinois.

Q. Mr. Ludlam, can you give us any idea as to Exhibit 14-*a*, and as to Exhibit 15, or either of them, as to what the dif-

4286 ference would be in the weight that is carried upon the cars?

A. Yes, sir.

Q. Well, tell us what it would be, and on what do you base it?

A. Exhibit 15, to which you refer, shows Train No. 51, for instance. Now, Exhibit 25 shows that Train No. 51, during the week

ending October 8th, 1905, carried one hundred and forty-three cars of interstate freight, of less than six tons each.

Q. Give us the extreme of the other end, as you have given us the extreme of that.

A. I haven't it, Mr. Hagerman. I might say the only reason I happened to have that less than carload business is that we recapitulated the exhibits that the company put in, for the purpose of working out what they showed.

Mr. LADD: Exhibit 14-*a*, and Exhibit 15, and Exhibit 9, were introduced by the company?

A. Yes, sir.

Mr. HAGERMAN:

Q. Take Exhibits 26 and 27: Those are Forms 1940 and 1941 respectively, showing statistics for the entire Missouri Pacific system, aren't they?

A. Those are the exhibits showing the operation of the Missouri Pacific system.

4287 Q. Now, turn to Exhibit 28: what is the theory upon which Exhibit 28 is based? That is supposed to represent what?

A. That is supposed to represent what the cost per ton of interstate freight is, based on figures shown in the Missouri Pacific Railway Company's Analysis of Statement of Superintendents' Operation for the year ending June 30th, 1906, which includes the operation of the Missouri Pacific Railway proper, the Iron Mountain, and the Central Branch, on an average haul of one hundred and five miles, provided the average terminal expense was 17.92 cents; and, in the first column, provided the train and engine service cost the same per ton per mile on both state and interstate business.

In the second column, provided the train and engine service cost twice as much per ton per mile upon state as interstate business.

And in the third column, provided the train and engine service cost three times as much per ton per mile on state as on interstate business.

Q. When you speak there of the Analysis of the Statement of Superintendents' Operation, you are referring to one of these forms, Exhibit what?

A. We are referring to both of these forms, Exhibits 26 and 27.

Q. Forms 1940 and 1941?

4288 A. Yes, sir.

Q. And the purpose of this Exhibit 28 is to show, upon a theory which you advance, the cost of operation as to the interstate freight, and exhibit 29 as to the state freight, in Missouri?

A. Based upon those two exhibits?

Q. Yes.

A. Yes.

Q. The first thing you take as a basis is the analysis of the Statement of Superintendents' Operation for the entire system?

A. Yes, sir.

Q. If that does not fairly represent Missouri, all this calculation is wrong?

A. To that extent, yes.

Q. You have not separated from Forms 1940 and 1941, and could not separate from them, the statement for the state of Missouri?

A. No sir, they do not give the figures for the stare of Missouri.

Q. You have got to take that cost as applied to the particular items mentioned in each one of these exhibits, that cost as you ascertain it in that analysis, for the entire system that is the first thing you must take?

A. In an analysis of the entire system, as shown in those exhibits.

Q. These items of expense are as you have listed them here (indicating)?

A. Yes, sir.

4289 Q. The cost is based entirely upon what is shown by this statement as to the entire system?

A. Yes, sir.

Q. Then in order to reduce it to tons per mile, you take the average haul, as shown by your Exhibit 19?

A. Yes, sir.

Q. And, unless your Exhibit 19 is right, this would be all wrong, wouldn't it?

A. To that extent.

Q. That is to say, in any respect that your Exhibit 19 would be wrong, this would be correspondingly wrong?

A. To that extent, yes.

Q. You get your average cost and average number of miles in this way: Did you get the average cost per ton per mile from these Forms 1940 and 1941?

A. Yes, sir, from Exhibits 26 and 27; that shows the average cost per one hundred ton miles, which is the same thing.

Q. Then the way you calculate this, that analysis as shown by Forms 1940 and 1941 show what it is for one hundred ton miles?

A. Yes, sir.

Q. And you reduce it to one ton mile, and you take the average of 105 miles for the interstate, and 52 miles for the State, as shown by Exhibit 19, and apply it in that way?

A. Yes, sir.

Q. Exhibit 19 shows the total number of ton miles, does it not?

4290 A. Yes sir, during the month of October.

Q. And Exhibit 5-*a*, shows the total expenses in the State of Missouri?

A. Sheet 3 of Exhibit 5-*a*, yes.

Q. Assuming now that the number of tons one mile, for one month, are as shown by your Exhibit 19, how would you ascertain what the average cost per ton per mile, as shown by Exhibit 5-*a*, was? Turn to your Exhibit 19. The total number of tons one mile is 56,318,587, isn't it?

A. Yes, sir.

Q. You said at one time that that ought to be multiplied by about ten to fairly represent a year?

A. As a rough estimate.

Q. Well, if you can make any more accurate estimate, do it.

A. In dividing this we would make it actual. The way we would reduce the figures shown by page 3 of Exhibit 5-2, would be to take the total earnings for one year——

Q. I am not dealing with the question of earnings. Take your own figures. You have here a theory upon which you figure out the number of tons one mile, and by exhibit 5-*a*, you have the expenses entirely in the State of Missouri: Cannot you, with those two figures before you, tell me what the average expense per ton mile was, for all freight, state and interstate?

A. Yes, but that deduction is based first upon the revenue, for the purposes of determining the ton mile. We have to determine the ton miles from the revenue.

4291 Q. I don't care how you determine the ton miles. In Exhibit 19 you have put in Column 6 the number of tons one mile of all classes of freight carried in the month of October, haven't you?

A. Yes, sir.

Q. How many ton miles would that be carried in a year? It would be ten times that, practically?

A. Well, I think it would be more than ten times.

Q. Take it at eleven times. You said ten times, at one time. Or, I will do it in a simpler way than that: Take the expense as shown by Exhibit 5-*a*, and divide by twelve to get it for one month.

A. We have got the ton mile for the year 1905.

Q. You have got that?

A. Yes, sir, for all freight, worked out on a revenue basis, which I was going to explain to you. It is 582,747,634, and is shown by Exhibit 30.

Q. That is the entire ton miles for a year for all freight in Missouri?

A. For Missouri.

Q. What is the total expense for Missouri, for 1905?

A. $4,203,320.24.

Q. Does that include anything for interest?

A. No, sir.

Q. Or taxes?

A. No, sir.

Q. That is exclusive of interest or taxes?

A. That is the total operating expenses.

4292 Q. Then to ascertain how much it costs per ton per mile to handle that freight, you would divide one of those figures by the other, wouldn't you?

A. Yes, sir.

Q. What will that bring you?

A. Roughly, seventy-two cents.

Q. That would be as against 57.946 cents, as shown by your Exhibit 28, wouldn't it?

A. Yes, sir.

Q. That is for interstate, and as against 86.63 as shown by your Exhibit 29——

A. As against 37.745, you mean?

Q. Yes, that is it. Now, assuming you include in your expenses, taxes, interest and rental, which we have in Exhibit 5-*a*, how much more will that make it? Or, what sum would it become instead of 72 cents?

A. That is about two cents more for the taxes.

Q. The taxes would make it about two cents more?

A. Roughly.

Q. Then take rental and interest: how much more would that make it?

A. That would make it about twelve cents more.

Q. Than the figures shown?

A. By Exhibit 5-*a*.

Q. Approximately, the average cost per ton per mile would be 72 cents without taxes, and 74 cents including taxes, and 86 cents including rentals and interest?

A. Yes, sir, on the basis of the figures shown by page 3 of Exhibit 5-*a*.

4293 Q. That is what you have attempted in Exhibits 28 and 29 to reduce yourself to, isn't it?

A. I beg your pardon, but I am off. I have taken the per ton mile basis there, and I have made a mistake. I used the total ton miles. It is 7.2 mills pe*t* ton per mile, and a haul of 105 miles on the interstate. That would make about 75 cents a ton.

Q. Has your Exhibit 28 and Exhibit 29 the cost per ton per mile?

A. No sir, per ton. The figures I gave you, 72 cents per ton, are wrong.

Q. Let us get the figures right, if you have them?

A. That would make 66¼ cents per ton instead of 72 cents per ton.

Q. That is to say, instead of the 72, that is exclusive of taxes?

A. Yes, sir, exclusive of taxes, rentals, and interest.

Q. Now what is it with taxes?

A. Would you like the taxes separate, or shall I give you all three together?

Q. I want the taxes separate first, and then all three.

A. The taxes would be 1.8 cents.

Q. And the other items in addition to that, rentals and interest, would be how much?

A. Eleven cents.

Q. That is in addition to the taxes?

A. Yes, sir.

4294 Q. Including all, that would make how much?

A. 79 cents a ton.

—. As against your 57 and a fraction in Exhibit 28, and 37 and a fraction in Exhibit 29?

A. No sir, not as against that; because Exhibits 28 and 29 do not purport to include taxes, rental- or interest.

Q. All right, then: 66, as against your 57 and a fraction, and your 37 and a fraction?

A. Yes, sir. And then if you should deduct from the expenses as shown by Exhibit 5-*a*, the $480,000, we think you have overcharged the state of Missouri, on account of the Kansas City terminals, it would reduce the figure to almost the figure shown by Exhibit 28.

Q. Do you mean to say that either your Exhibit 28, or 29, or 19, is made upon the basis of changing that Kansas City terminal situation, and charging the expenses in some way different from what the company has been charging them?

A. Exhibit 19 does not deal with expenses at all. That is purely revenue. Exhibits 28 and 29 are based upon the operation of the system, as shown by Exhibits 26 and 27. Exhibit 5-*a* states the expenses of the State of Missouri, as submitted by the company, which we think are about $480,000 more than they ought to be, on account of the Kansas City terminals; and if that item of $480,000 is deducted from Exhibit 5-*a*, it will leave the expenses per ton just about the same as they are shown to average on the system by Exhibits 26 and 27.

4295 Q. However you figure it out, this much is certain: if the Master can be given the number of ton miles, and the total amount of expenses in Missouri, he can ascertain by the division of the expenses by the total number of ton — for that year, the average cost, as you have ascertained it, can't he?

A. The average cost per ton per mile—yes.

Q. To get a comparison with your Exhibits 28 and 29, what do you do with that per ton per mile?

A. In the first column, we treat both state and interstate as costing the same, and we multiply the cost per ton per mile as shown by Exhibits 27 and 28, by the average distance hauled.

Q. I do not think you understand me, Mr. Ludlam: what is your 66- and your 79, that you finally gave me? What do they represent? Is that the cost per ton per mile?

A. No, sir. That is the cost per ton.

Q. What would those figures equal per ton per mile?

A. 7.2 mills, roughly.

Q. Instead of 66?

A. No sir. It is 7.2 mills per ton per mile; the 66 is per ton. The average haul of all the freight in the State of Missouri, and in this figure we are dealing with all, as shown by Exhibit 19, is 92 miles. And so you multiply your 7.2 mills by 92, which is the average distance all of the freight, both state and interstate is hauled; and that would give you a cost of 66¼ cents per ton.

Q. That is the way you get the 66 and the 79 as the basis of comparison with your Exhibits 28 and 29?

4296 A. As the basis of comparison which you make.

Q. Your 92 does not enter into the calculation of the cost per ton per mile of all the stuff in the state, because that can be ascertained by dividing the total expense, whatever the Master finds it to be, by the total number of ton miles in the State, whatever he finds that to be, for the same length of time.

A. That is what we have done. We have divided by the number of ton miles. I think you mean he can divide it by the number of tons, and get the cost per ton.

Q. On this basis you have figured it out, the 66 and 79, that is by taking into consideration, as you did in your Exhibits 28 and 29, the length of the haul; and you get in that way, taking into consideration the length of the haul, the cost of handling the freight per ton?

A. That is what Exhibits 28 and 29 give.

—. That is what your 66 and 79 do, isn't it?

A. Except that in the 66¼ cents, and 79 cents, per ton, we do not separate it between state and interstate. Exhibits 28 and 29 do.

Q. I understand that. Now, as I understand you, the way you reach that 66 and 79 is this: Given first the amount of expenses, as we have them in Exhibit 5-*a*, divided by the number of ton miles for the same period of time, you multiply by 92, which is your average, as shown in Exhibit 19?

A. Yes, sir.

Q. Now, if the Master wants to get the actual cost per ton per mile, he would not need anything more than his
4297 finding of fact, what the actual expenses in Missouri were, and what the total number of ton miles in Missouri were, for the same period of time, and divide one by the other, would he?

A. I should not think so.

Q. Now, assuming that Exhibit 5-*a* is correct as to the expenses per ton per mile, what would that 66 be that you have reduced to tons?

A. 7.2 mills per ton per mile.

Q. What would your taxes be?

A. It would be two-tenths of one mill per ton per mile.

Q. What would the whole thing be, in addition to these sums—or what would the whole total be, including taxes, rental and interest?

A. 8.6 mills per ton per mile.

I would like to say that I want an opportunity to verify all these figures I have made as hurriedly, as the record.

Q. If it costs 8.6 mills per ton per mile to handle all the business, and the proportion per ton per mile was 86 and 14, how would you go to work to ascertain the division between the state and interstate per ton per mile? Taking nothing except what we have now: You have the 86 per cent, and the 14 per cent, as shown by Exhibit 19, and you have 8.6 mills per ton per mile, as shown by your present figures.

I want you to eliminate, for the purposes of this question, anything you have of your own figures, but take just the two things I have, and see where it will lead you? And I am not by this
4298 question committing you to any statement that this is the right way to do it, or the wrong way.

A. If I were going to figure the cost of doing the state business as being twice the cost of doing the interstate business, I would multiply the 14 by 2 to get my——

Q. We have been using three a good many times; let us multiply

by three. It doesn't make any difference, for the purposes of this calculation.

A. If you were to do it on the basis of its costing three times as much per ton per mile for the state as for interstate, including the taxes, rentals, and interest, you would multiply the 14 by 3, which would give you 42, and add 86 to that, which would give you 128; divide the 128 into the 8.6, which would give you practically 6.7 mills per ton per mile for the interstate; and three times that, or 2.01 cents for the state.

Q. How would you work that? 6.7 mills for the cost of doing the interstate?

A. Yes, sir. And three times that.

Q. Is what?

A. 2.01 cents as the cost of doing the state business.

Q. That is to say, upon that theory, it would work out that it would cost you three times as much per ton per mile to do the interstate business?

A. To do the state business.

Q. The final result of that would be how much per ton per mile, on the interstate, figured out that way?

A. 6.7 mills.

Q. You have a total of 8.6 mills for the entire cost: that
4299 would leave you 1.9 mills for the state business, wouldn't it?

A. No, sir, it would cost you three times——

Q. I am simply doing this to test the correctness of your theory. You have said time and time again during your examination that Mr. Sturgis' method of calculation is all right, but that the question of difference between you was your system. Now, figure it out as you will, it costs you 6.7 mills to do the interstate business, doesn't it.

A. On the basis of all the business costing 8.6 mills.

Q. And it would cost you what to do the rest of it?

A. That is on the basis of the state business costing three times as much as the interstate. Your common unit is 6.7 mills, which gives the cost of the interstate business. The state business would be three times that, or 2.01 cents per ton per mile.

Q. 2.01 cents as against 6.7 mills?

A. Yes, sir.

Q. And that would make sum total of what? As applied, would not that more than make up all the expenses there are?

A. No, sir.

Q. That would bring it out right, would it?

A. Yes, sir.

Q. And would that make any difference between the result of working it out as I suggested yesterday, taking your 86 per cent, and 14 per cent, as in your Exhibit 19, and figuring it directly upon the total amount of expenses?

A. Yes, sir, because yesterday you were figuring on the number of tons and the revenue.

4300 Q. I figured three ways yesterday.

A. This is on the ton miles, which is entirely different.

Q. I was figuring three ways yesterday: First upon the gross tonnage: you figured it from Exhibits 28 and 29 on the gross tonnage, and then you reduced it, by adding the element of the length of haul, and figured it out upon a different basis, upon what you called the "ton mile basis." Then the third way I gave you was, taking your figures is Exhibits 28 and 29, the 86 per cent and the 14 per cent: What I don'- understand is, to carry out this example as you carry it out now, you have 8.6 mills divided so that the sum total is 2.01 cents?

A. No sir.

Q. Why not?

A. You started with one mile?

Q. Yes.

A. Which was 8.6 mills?

Q. Yes.

A. You said 86 per cent of that one mile was interstate business?

Q. Yes.

A. And fourteen per cent of that mile was state business?

Q. Yes.

A. And you wanted to know what the ratio of cost would be per mile on state and interstate?

Q. Yes.

A. Assuming that the state costs three times as much as
4301 the interstate.

Q. Yes.

A. Your figure after multiplying your state percentage of 14 by 3 is 6.7 mills, which is your common unit. That would be the cost for a mile of interstate business, and three times that, or 2.01 cents would be the cost for a mile of state business.

But in this figure of 8.6 mills, you have only one mile, or 86/100 of a mile of interstate. Therefore, you want to take 86/100 of your 6.7 mills, which is the cost for a mile of interstate, and add to that 14/100 of your cost of 2.01 cents, which is the cost per mile of your state, and that will give you 8.6 mills—unless I have made a mistake in my calculation.

Q. How do you arrive at your 6.7?

A. By taking 14 and multiplying it by three, which gives 42, and adding that to the 86, which gives 128; and dividing that 128 into the 8.6 mills.

The MASTER: That is precisely Mr. Sturgis' calculation.

A. Exactly. But we have only one mile. Mr. Hagerman cannot understand why the total of the two figures is more than the original figure.

Q. You have been above one hundred, and you must reduce it back to one hundred?

A. That is it exactly.

Mr. HAGERMAN:

Q. Applied to the per ton, what would your figure 66 become?

A. On the average haul of the interstate?

4302 Q. Yes. I am taking now your figures of 66 and 79: where would that lead us?

A. I have not made the figure per ton per mile on the 66¼; I will have to reduce that.

Q. This is getting it to the per ton basis, as you figure the per ton, on the length of the haul; and it is upon the basis of your 66 per ton, exclusive of taxes, rentals, and interest?

A. (After calculating.) On the basis of 66¼ cents per ton——

Q. Figured as you have already figured it?

A. Figured in accordance with your request.—And assuming that the state costs three times as much as the interstate, and that the interstate moved an average of 105 miles, the cost per ton of the interstate would be 58.8 cents. And on the basis of all the business costing 79 cents per ton, figured out the same way, the cost for the interstate would be 70.35 cents per ton.

Q. (After calculating.) On the basis of all of the business costing 66¼ cents per ton, and the state costing three times as much, the cost of the state would be 87.36 cents per ton. On the basis of it costing 79 cents for all the freight, the state would be $1.0452.

The MASTER:

Q. Is that assuming three times the cost per ton, or per ton per mile?

A. That is three times the cost per ton mile of all the operating expenses in the first place, in the smaller cost; and three
4303 times the cost per ton mile in the latter case, of all the operating expenses, taxes, rentals, and interest on the bonds.

Mr. HAGERMAN:

Q. That is to say, for the purposes of those calculations which you have just made, we have taken Exhibit 5-*a*, as the basis, one alternative being excluding taxes, rentals and interest, and the other is leaving them in?

A. Yes, sir.

Q. And then we have taken as you have got it in Exhibit 19, the ton miles or the tons per mile, and the percentages of 86 and 14, as found there?

A. Yes, sir.

Q. The result of that is, per ton, ascertained in that way, for the interstate business, 58.8 cents, exclusive of taxes, rentals and interest, as against what, in your statement Exhibit 28? 57.94, isn't it?

A. It could not be compared with Exhibits 28 or 29, because that does not double or treble the whole expenses.

Q. Take it with the last column, then, trebling the cost?

A. That trebles only part of the cost, the engine and train service.

Q. That would tend to show you had left out something, wouldn't it?

A. We think——

Q. Whatever it tends to show, I want the comparison.

A. It would not tend to show we had left out anything.

4304 Q. Let us have the comparison.

A. If you will tell me the figures you want compared——

Q. 58.8 compared with 57.946, your single cost, and with 56.345, your double cost, and with 54.932 is your third column.

A. No sir, not my comparison. I would not compare those two figures, because they are not comparable, in my judgment.

Q. It makes as to the interstate 70.35, as against your total cost per ton, single cost 57.946, double cost, 56.245, and treble cost 54.932, doesn't it?

A. No sir. It does not, because, aside from the other matters you assume, and which are not in accord with Exhibit 28 at all, your 70.35 includes also taxes, rental- and interest, which are not embraced there at all.

Q. That is why I am trying to get a comparison. Where would your Exhibit 28 be if you had included what you have in Exhibit 19, and included the expenses as we have them in Exhibit 5-*a*?

I don't care whether it is in your opinion that that is the right way, but I want to know what difference it would make in your figures, if you calculated upon that hypothesis, and in that sense of comparison my figures are right?

A. No sir, I don't think you can compare your figures with ours, because they are predicated upon an entirely different hypothesis.

Q. I know you don't think so.

A. If you want me to state that the first column of Exhibit
4305 28 shows 57.946 cents per ton, I will be very glad to do so, because it does.

Q. Take Exhibit 29. Figured upon the basis you say you figure it, the single cost is 37.745?

A. Yes sir, that is right.

Q. And at three times, it is 46.89?

A. At three times the train and engine service, it is 46.89.

Q. Three times is the basis upon which you have calculated it?

A. Yes, sir.

Q. At three times, upon the basis of our Exhibit 5-*a*, excluding all taxes, rentals and interest, it is 87.36, as against your 46?

A. Not as against my 46. I do not think that is quite a fair statement. Upon the basis you have stated, it is 87.36.

Q. And upon the basis you stated, it is 46?

A. Yes sir, and the two bases are entirely different.

Q. Let us compare it upon the assumption that we have taxes, rental- and interest to be considered: how many times your 46.89 shown in your third column of Exhibit 29 would it give us?

A. $1.04 is about two and a fourth times as much as 46.

Q. And 46 is what you have got, and $1.04 is what I have got: Will you go me that far?

A. 46 is what Exhibit 29 shows, and $1.04 is the figure I gave you as the result of calculations you wanted me to make.

Q. If you would calculate your per ton in the way I
4306 wanted it in the questions yesterday, and not reducing it to the basis of the whole as you do to get your ton basis, the result would be very different still, wouldn't it?

A. Yes, sir.

Q. And a very much heavier expense locally as against the interstate about twice as much, wouldn't it?

A. If you estimated that it cost three times as much to haul a ton 52 miles, as it cost to haul a ton 105 miles, the dis-proportion between the figures would be still greater.

Q. I observe that wherever we get to, when you get down to the end of your figures, upon whatever hypothesis you figure it out, if I apply the total tonnage and a percentage of that, and divide the expenses that way; or upon the basis of revenue; the result is that whenever you use a multiple of three it is equivalent to about one and one-half upon the ton mile basis; or, if you use a multiple of two, it is equivalent to about a multiple of one.

A. I haven't figured that out; but I should think it would run a little higher than that.

Q. How much higher would you say?

A. Some higher.

Q. About how much? I am taking it only roughly. That is to say, if it costs four times as much to do state business as to do interstate business, if I would figure it out upon the revenue basis that would be equivalent to what, upon the ton mile basis? Eight times, wouldn't it, to make them cost out even?

A. Roughly, the state revenue is about twice as much per
4307 ton per mile as the interstate.

Q. You stated repeatedly during your examination that the question of revenue does not enter into this thing at all?

A. Absolutely not at all, into the question of cost. It has not the slightest relation to it.

Q. The cost should be ascertained in the best way possible?

A. Yes, sir.

Q. The ton mile is not the question; the revenue is not the question; the thing to be desired would be to ascertain the actual cost, if you could ascertain it in any way?

A. In our judgment, the ton mile basis is the only way in which you could ascertain it.

Q. We tried to do so.

Q. But on that basis, and with your figures, wherever you got, we have to double the figure with which you multiply, every time, to get you even upon that basis with us, upon the ton or revenue basis, don't we?

A. Yes, unquestionably.

Q. Why is that so?

A. If you earn twice as much upon one ton of freight, which is state freight, as you do upon another ton of freight, which is interstate freight, if you want to show that the relation of cost to revenue is the same in both cases, you have immediately got to assume that the state business costs twice as much as the interstate, in order to get even.

4308 Q. Now, then, let us take it upon the tons, because it does strike me that besides being a simple way of arriving at the result, it is a little remarkable that when you deal with the thing upon the question of tons it comes out just the same, for practical

purposes, as when you deal with it on the question of revenue; and yet your multiple has to be doubled when you deal with it on the ton mile basis.

A. It would not be strange if you keep in mind that the revenue is as much, and the haul only one half as much.

Q. I am giving you the question irrespective of revenue, where you have the total number of tons carried, state and interstate.

A. I said——

Q. I will state in passing that in my mind the two ways you have figured it out come out practically the same; and with the other way, your way of figuring, it comes out only one-half?

A. As a general proposition, there are a great many wrong ways, and only one right way to do a thing.

Q. I understand your proposition, as to why it is double in the case of revenue, but why in the case of tonnage?

A. Why is what double in the case of tonnage?

Q. In the case of tonnage, if we divide the expenses on the basis of tonnage?

A. Because the state tonnage moves only half as far as the interstate tonnage.

Q. That is the sole reason?

A. Yes, sir.

4309 Q. Go along with your Exhibits 28 and 29: they are gotten up on the basis that the cost in Missouri per ton is based on the average cost on the whole system, which includes the Iron Mountain and Central Branch railways?

A. I would express perhaps the same idea by saying that they are gotten up to show what the results in the state of Missouri would be, if the cost in the state of Missouri was the same as it is on the entire system.

I would like to say right here, though, that if the portion of the Missouri Pacific system which lies in Missouri is as well operated as the system as a whole, the cost in Missouri, in my judgment, should not be as great as on the whole system, for the reason that the density of traffic is greater in the state of Missouri than it is on the system as a whole.

Q. Now, let us test it: Take your Exhibits Forms 1940 and 1941: what is the cost per ton, or per ton mile, on the whole system? Maybe you can answer that without following it out. As a matter of fact, isn't the cost in Missouri about forty per cent higher than on the entire system?

A. I have not worked it out. I cannot imagine it should be.

Q. Isn't the average cost per ton upon the items shown by Forms 1940 and 1941 about 4 mills, as against a cost of about 6 mills on the same items in Missouri?

A. As shown by what, for Missouri?

Q. I am just giving it roughly, from a note I had. I thought you might take some classes of those items and make a rough

4310 comparison quickly. What is the total cost per ton per mile, on that form, for the system?

A. Four and one-half mills.

Q. Now what is it on the Joplin Division for Missouri: Isn't that shown by this Exhibit Form 1940?

A. No, sir.

Q. Have you that anywhere?

A. No, sir.

Q. Look at this Form 1940, sheet 1: what is it for the Joplin division?

A. 6.4 mills.

Q. As against 4½ mills for the entire system?

A. Yes, sir.

Q. Am I far out of the way when I say that the cost for Missouri would be about 40 per cent, as against 4½ mills for the entire system?

A. I think you are.

Q. What difference would it make in your figures?

A. I don't know what would make the expenses so high on the Joplin Division; and I wouldn't think the Joplin Division would be a fair representation for Missouri.

Q. The Joplin Division is all in Missouri; that is the reason I took it.

A. The biggest variation I see, just looking at this sheet hastily, between the expenses of the system as a whole and the expenses of the Joplin Division, is in the General Expenses; the general expenses of the Joplin Division being more than double what they are on the system as a whole. Of course, that would apply equally to state and interstate freight.

4311 Q. Take the Illinois Division?

A. The Illinois Division, as shown here, is 2.7. What does the Illinois Division embrace?

Q. It is the Iron Mountain on the east side, St. Louis to Thebes. What is the eastern division there for the Missouri Pacific?

A. May I ask what the eastern division is?

Q. It is from Kirkwood to Rock Creek, and takes in no terminals, either at St. Louis or Kansas City.

A. 3.5. I might say, in explanation of the reason why we did not attempt to use the figures of the different divisions, as shown by these Exhibits 27 and 28, was because we understood from Mr. Johnson that the division figures did not include the terminal expenses; and that in order to get the terminal expenses, we had to take the figures of the system as a whole.

Q. That applied only upon the eastern division, and a like division, where there would not be any terminals, like St. Louis or Kansas City. That is not so as to the rest of the figure.

But what I am driving at is, that you have made a calculation based upon figures for the entire system, when you should have made it based upon figures about 40 per cent higher, should you not?

A. No, sir; I have already explained that I think the expense in Missouri should be less than upon the system as a whole.

4312 Q. I am not talking about what they ought to be, but what they are.

A. I don't know, then, what they are.

Q. You say they are what they are?

A. I say, for the eastern division it is only 3.2. It is much less than for the system as a whole.

Q. Take the St. Louis division, St. Louis to Kansas City: what is it for that division?

A. There is no such division.

Q. What division comprises the lines running across the state: did you take the figures as to that?

A. No, sir. We understood from Mr. Johnson that the terminal expenses were not included in those division expenses, and the only figure you can get that embraces all the expenses is the figure treating the system as a whole, and that is why we took it.

Q. You took it from the statement that his figures figured out upon the same basis as these figures?

A. No sir; just as Mr. Johnson told you just now, that the eastern division, which starts at Kirkwood, did not include the St. Louis terminal expenses.

Q. Of course, not, because the St. Louis terminal expenses would be in that division of the road.

A. What division? I wish you would show it to me on this statement.

Q. I don't know what it is.

A. Then Mr. Johnson, or any one else connected with
4313 the Missouri Pacific road.

Q. Take Form 1939, and it will show it.

But the point I am making is, you can take this statement and figure out the cost per division, and you have taken the average for the entire system, which is on the basis of 40 per cent less than the cost in Missouri, and based your figures on that?

A. We took the only figures that we understood were available and reliable, and that meant anything.

Q. Form 1939 gives all the St. Louis terminals, and the Kansas City terminals, as separate divisions, doesn't it?

A. I do not so understand.

Q. Look at Form 1939, the first sheet, and that has been the testimony in the case as to the Kansas City terminals, that they changed it some time ago, and made it a separate division?

A. I see no figures here per ton mile, Mr. Hagerman. Nothing that would enable us to apply it.

Q. You have on the other sheets the number of ton miles, and you have on the sheets in different details all the expenses for the divisions, and for the system; and you have on this sheet all the expenses of those terminal divisions. Of course, there would not be any ton miles there, because there would be none run.

A. There are no ton miles shown for the state of Missouri on those exhibits. Certainly you could not take the ton miles of the eastern division, which does not embrace St. Louis, and apply that against the terminal expenses.

4314 Q. You find the shipment does it all right, with or without the terminals? That is 40% higher?

A. I understand from Mr. Johnson now, that that includes all the terminals upon the Joplin Division.

Q. That is the only reason you can give, practically it was easier to do it your way: isn't that it?

A. No sir, those were the only figures which were available, which we understood were reliable and could be used.

Q. Cannot I put it a little stronger, and say it was a little more advantageous to you to take the theory upon the basis of the entire system, where the cost was 40 per cent less than in Missouri?

A. We thought if we had actual figures for Missouri, they would be considerably less than for the system, We thought taking the figures for the system it was against us.

Q. Assuming the cost for Missouri, was 40 per cent more, what difference would that make in your figures?

A. It would change them 40 per cent.

Q. That is, your figures would be altogether wrong?

A. To that extent.

Q. And the fact about it is, that those Exhibits 28 and 29 were extended on the theory and for the reason of making a comparison upon certain theories you had, with the system as a whole?

A. No, sir. They were gotten up for the purpose of showing, as nearly as could be determined, the cost of state freight and the profits results from the conduct of that business as compared with interstate.

4315 I might say now that if you take the percentages shown here, and use that ratio against the state earnings and the interstate earnings, you will come out very closely to the operating expenses as shown by page 3 of Exhibit 5-*a*, after allowing our estimate of excess charges against the State of Missouri of $480,000 on account of the Kansas City terminals, which to our minds indicate that they are a very close approximation to the actual results.

A. After all, it is only an approximation?

A. Yes, sir.

Q. Let me deal for a moment here with the station and yard services: that is an expense just like the general expenses conducting of transportation other than traffic: maintenance of buildings and side tracks: where the length of the haul has no bearing on it, isn't that true?

A. To some extent. It is not wholly true, I do not think.

Mr. HAGERMAN: Let us take the question of station and yard service: there is a fixed expense there: isn't there.

A. Yes, sir.

Q. Dealing as you say from the standpoint that the expense must not be coupled with revenue in any way whatsoever, what does the length of the haul have to do with the station or yard service?

A. Well, I should imagine, Mr. Hagerman, and I think even an amateur could realize that, that a car going from New York to San Francisco would use a great many more yards and have a great many more expenses than a car going from St. Louis to Sedalia.

4316 Therefore, I should think the length of the haul would have a vast amount to do with the yard and station service.

Q. I can see how it would be possible, taking the State of Missouri, running clear across the state and running across several divisions, the fact that it crosses those divisions would cut some figure; but when we do not get the use of any of the terminals at the division, what difference would it make whether the car went from Pacific Junction to East St. Louis, or went from Pacific Junction to Alton, Illinois: They would cross the division point once.

A. In the State of Missouri.

Q. In the State of Missouri they would cross once?

A. Yes, sir, and in that case the terminal expense of the state and interstate would be identical.

Q. Give me another divisional point, out in the center of the state, Jefferson City, for instance.

A. Yes, sir.

Q. What difference does it make whether the haul started at the first station west of the eastern division point and stopped at the first station east of Sedalia, next to the division point; or, whether it started at the closest point east of Jefferson City and stopped at the closest point west of Jefferson City?

A. I do not think it would make any difference. I might express that by saying that where a movement was within the terminals, there would be no difference in the cost.

Q. Regardless of the difference in the haul?

A. Yes sir. Provided it was within the terminals.

4317 Q. And yet you make an iron-clad rule upon your basis of calculating the cost upon the ton mile basis, which must result in dividing any figure we make into two, because of the difference in the average length of haul, don't you?

A. No sir, I double the terminal and yard service in estimating state expenses, because the state freight moves only half as far as the inter-state.

Q. Per ton per mile?

A. I double it per ton per mile because it moves only half as far.

Q. Take general expenses: What difference does the general expenses make, whether you run the train ten miles or one hundred miles?

A. I don't think it makes any difference per ton per mile.

Q. Then why ought the ton per mile basis to be applied to an expense of that kind?

A. Because I think that is the surest basis you can apply.

Q. What do you call "Conducting transportation other than traffic"?

A. I have not attempted to call it anything. I have called it by the company's designation.

Q. I should probably not have said "what you call it". What is it called in the different statements? It is a term that is used. I do not want a detailed definition, but you understand what the term is, and I wish you would tell me upon what basis or why the length of the haul affects the expense?

4318 A. Because those items of expense include many things that are very largely dependent upon the length of the haul,

such as loss and damage, hire of equipment, car service, injuries to persons, the operation of stock yards and elevators.

Q. "The operation of stock yards and elevators": How would that affect it? That is purely a terminal service and would be just like other terminal services, station and yard services, would it not?

A. Yes, sir, that is double.

Q. And also "maintenance of buildings and side tracks", would be practically in the same category, wouldn't they?

A. Not "side tracks", because the further you go the more often you use side tracks. "Maintenance of buildings" might.

Q. "Maintenance of tracks" at terminals, and "Maintenance of buildings"?

A. No sir, "maintenance of tracks" at terminals would be dependent upon the length of the haul.

Q. Why?

A. The same example I used a moment ago.

Q. Would not that be exactly like "station and yard services", so that where it was between terminals, it would not cut any figure whether it was one mile or 100 miles?

A. No, sir. The expense of yard terminals is in handling the freight, and that is as expensive per ton whether the ton goes 105 miles or 52 miles. And the maintenance of sidings and side tracks, because the further the car goes the more it uses the side tracks.

Q. I can see the point you make about the car going
4319 through the state; but take the buildings, sidings and terminals themselves, and you will concede me that as to shipments between terminals, the length of the haul would not make any difference, would it?

A. No sir, I do not think it would.

Q. Mr. Ludlam, according to Exhibits 28 and 29 you have had figured out that it costs a good deal more to do the interstate than to do the state business, instead of the converse, haven't you?

A. Not per ton per mile, no sir, but per ton.

Q. But you figure out on the ton per mile basis?

A. Figured on the ton mile basis.

The MASTER:

Q. That introduces another complication:

What do you mean by "per ton figured on the ton per mile basis". I understand the term "per ton", and I think I am beginning to learn something about per ton per mile", but I do not understand about "per ton figured on the ton mile basis: Now what is that?

A. Exhibits 28 and 29 take as their basis the cost per ton per mile. Then in the case of interstate we multiply that cost by 105, because the interstate moves on the average 105 miles, to get the cost per ton. That gives you the cost per ton of the interstate based upon the per ton per mile cost.

In the case of the state we get the cost per ton per mile, and as that moves on the average 52 miles in the state of Missouri, we multiply the cost by 52 to get the cost per ton, which gives us the cost per ton based upon the cost per ton per mile.

4320 But in making those calculations we figure that the station and the yard service is the same per ton, irrespective of the difference.

You will see in Exhibit 28 and also in Exhibit 29 that we use 17.92 cents as the cost per ton for station and yard service, which is the figure shown by Exhibits 26 and 27, the Company's statement of analysis of superintendents' statement of operation.

Then in the case of train service, engine service, on those statements, we double that cost in one instance and treble in in another instance.

Q. What you mean by the ton, based upon the ton mile, is that the ton mileage has been reduced by the tons?

A. Yes, sir.

Q. What was the necessity of that calculation, when you could ascertain the cost per ton by dividing the number of tons into the cost?

A. Because the two classes of freight move different distances. You have to get the cost per ton per mile as your unit. You could not take, according to Mr. Hagerman's illustration, the average of one thousand tons of freight that moved one mile, and one thousand tons that moved one thousand miles each, and say that two thousand tons were moved, and therefore divide 2000 into the expenses, because that would assume it cost as much to move a ton a mile as to move a ton 1000 miles.

You first determine the cost per ton per mile, and then make your calculation upon the average haul of the two classes of freight.

4321 Q. If I knew the number of dollars I received for transporting so many tons of freight, I would know the cost per ton. If I knew the number of miles that freight moved, I could readily determine the number of ton miles.

What necessity for complicating that by reducing it back to ton miles?

Mr. HAGERMAN: Take the number of tons, or simply the first example, you would divide your expenses upon the basis of charging 25 per cent in the first instance, on state business, but it would be only 14 if you applied to it the test of the ton mile basis. Therefore it is a confusion of terms, and so you are figuring it out upon the ton mile basis.

Mr. LADD: Let Mr. Ludlam answer the Master's question.

The MASTER:

Q. What is the necessity of introducing that extremely complicated calculation?

A. The necessity to my mind seems to be very urgent. If you take your total number of tons and divide it into your total expense, you assume right at the start, that it costs the same to haul a ton 52 miles, which is the average distance the state freight moves, as it does to haul a ton of freight 105 miles, which is the average distance the interstate freight moves.

You would start immediately on a false premise, if you simply divided the number of tons into the expenses.

4322 Just as I attempted to show in my illustration, it does not cost the same to haul a ton of freight one mile as it does to haul a ton of freight 1000 miles. You must reduce it to a common unit, and after you have obtained that common unit, which is so much per ton per mile, you can say this first ton was moved a mile and at that cost per ton per mile it would be so much. The second ton was moved that much, and at that cost per ton per mile it would be one thousand times 1000 miles.

You cannot simply divide your tonnage into your expenses when your elements are entirely different, one being more than double what the other is.

You must get down to a common unit to get a basis that means anything. You might as well say you could run a grocery store and sell kerosene and apples, and that you could take the total number of barrels of each you sold to find out what you realized from your kerosene and your apples, though they are entirely different articles.

One goes 52 miles and the other goes 105 miles.

Mr. HAGERMAN: In preparing Exhibits 28 and 29 why did you start with the cost per ton per mile without going into the other?

A. Because we did not want to stop off-hand and we wanted to carry it out to a conclusion that really meant something.

Q. You don't mean to say that either of these Exhibits represent, even upon the theory you prodence them, of a cost per ton?

A. Yes sir, in my judgment they are a very close approxi-

4323 mation to the cost per ton.

Q. Ascertained upon the basis per ton per mile?

A. Ascertained upon the only unit that is known in the railroad business, that means anything.

The MASTER:

Q. How does the result per ton compare with the primary result obtained in the manner I indicated a moment ago? There are other figures outside of that Exhibit entirely. The total cost compared with the total number of tons. How does it compare?

A. This makes the cost on the basis of the train and engine service being the same, as shown in the first column of each of these two Exhibits 28 and 29 respectively 57.9 cents per ton on the interstate freight, and 37.7 cents per ton on the state freight.

Whereas, if you simply divide it by the number of tons, the cost would be identical. If you have your total number of tons and divide it into your expenses.

Q. Take the amount of state freight and interstate freight that you have, from other Exhibits, and what is the cost per ton, outside of this Exhibit, and how does it compare with this Exhibit? Some of the Exhibits show that.

In other words, whether the cost per ton figures strictly, about or comparatively near, what it figures out in this intricate manner.

A. On the basis of Mr. Hagerman's request a moment ago, taking the expenses as shown by the Company's Exhibit 5-*a*, and divid-

ing it by the number of tons, the expenses amounted to about
4324 66¼ cents per ton for all state and interstate, carload and less than carload freight.

The total cost in the State of Missouri was 66¼ cents.

The cost here of the interstate is 57.9 cents, and of the state 37.7 cents per ton (indicating Exhibit).

Now of course the state is only a small proportion of the interstate freight, therefore the cost of both together on this basis would be reduced just about as much as what we consider the excess charge on the Kansas City terminals amounts to.

Mr. HAGERMAN:

Q. And yet that excess does not enter into the figures at all?

A. The excess cost to Missouri.

Q. That is just an accident, because it does not enter into your calculation in any way.

A. No sir, it is not an accident. It is a mathematical calculation, because in these Exhibits 26 and 27, prepared by the company, the expenses are properly distributed over all the business of the Company, and not all of the Kansas City terminals charged to the State of Missouri.

4325 The MASTER:

Q. Did you deduct the Kansas City terminal expense, or the proportion that should have been charged to Missouri, in the preparation of those two exhibits?

A. Those two exhibits are based entirely, as stated in the heading, upon the cost per ton mile of the entire system, as shown in Exhibits 26 and 27, which are the forms showing the analysis of superintendents' operation. These are not based upon the figures submitted by the company for the state of Missouri. These are based upon the cost on the system, as a whole, on the mileage in the state of Missouri, as shown by Exhibit 14.

Mr. HAGERMAN:

Q. In your Exhibits 28 and 29, in the tabulation of figures, do you endeavor to include there all the items that were included in "Conducting Transportation," in our Exhibit 5-*a*?

A. We included all the operating expenses shown by Exhibits 26 and 27, which we assume are all the operating expenses of the company, the same as shown by Exhibit 5-*a*.

Q. Under the head of "Conducting Transportation," that is to say, excluding taxes, rentals, and interest?

A. Yes sir, shown under the head of "Operating Expenses," in Exhibit 5-*a*.

Q. What I want to show is that your 57.946 and 37.745, if you would apply those figures, that is the cost per ton. Now, turn to Exhibit 19, and apply those figures to the total tonnage, state and interstate, as shown by Exhibit 19, and where does it bring you in cost?

A. Exhibit 19 gives you the tons for October only.

4326 Q. Well, we will figure that out. Can you do that quickly, roughly?

A. I cannot do it very quickly, but I will do it as quickly as possible.

Q. It may be that it works out exactly; I don't know. I want to see how that would figure out for the year's cost of transportation?

A. The sum total of the two?

Q. State and interstate.

A. That is, 459.501 tons of interstate, at 57.946 cents; and 151,033 tons of state freight——

Q. Those two large numbers being found in Column 1 of Exhibit 19?

A. Yes sir. The latter tonnage, being the state tonnage at 37.745, amounts to $323,269.85.

Q. That would be for one month?

A. Yes, sir.

Q. You said that October ought to be multiplied by about ten or eleven to make it equal twelve months?

A. Something like that.

Q. Multiply it by that, and see what that would bring—either ten or eleven, or both.

A. $3,555,968.35.

Q. Now, turn to Exhibit 5, for 1905, and see what the total cost for operating expenses for the entire year was.

A. $4,203,320.24.

Q. Now what is the difference?

A. $647,351.89.

4327 Q. In other words, if you would apply your figures in Exhibits 28 and 29, and in Exhibit 19, you would have nearly $700,000 more total expenses than were incurred of expenses of that time, during the year 1905?

A. As shown by Exhibit 5-*a* you mean?

Q. Yes.

A. No sir.

Q. What would be the difference?

A. To start with, it would be less instead of more.

Q. I should have said "less": That is to say, you are short that much expense on your figures?

A. No sir. We are short that much expense, multiplying the October figures by eleven, which is only an estimate. When we worked that out exactly, we found the difference was almost precisely $400,000, which represents what we consider the excess charge to Missouri on the Kansas City terminals. Assuming the year is eleven times October, which is only an approximation, the difference is $647,351.89.

Q. If October was only one-twelfth of the whole year, where would it lead?

A. It would leave us $324,082.04 less than the expenses shown by page 3 of Exhibit 5-*a* for the year 1905, and——

Q. Take ten, and where would that lead you? That was one of the estimates given. I think probably ten would be nearer to it than eleven.

A. I would like to complete my answer to your last question:

And the $4,203,320.24, as I have already stated, is some-
4328 thing over $400,000, in our judgment, in excess of what it should be.

Q. Take ten times October, and see where that will lead you?

A. I am glad to make these figures, if you want me to do so, but I do not think there is a railroad man in the country who would tell you that the expenses for a month would fluctuate as much as the earnings. Whereas, 10 or 11 times the earnings, during the month of October, might approximate those for the year, the expenses would not vary that much. A large amount of expenses are fixed.

Q. Expenses of that character would depend largely on the volume of the business?

A. These are all expenses of the company, except rental and taxes and interest; salaries of general officers, clerks, and everything of that kind.

If you estimate the expenses of the year at ten times the cost for October, using the tonnage for October as shown by Exhibit 19, and the expenses per ton as shown by Exhibits 28 and 29, the total for the year would be $3,232,698.50.

Q. What is the difference?

A. As compared with $4,203,320.24, as shown by page 3 of Exhibit 5-2, a difference of $970,621.74.

And I might state, of course, that if you took three times the expenses of the month of October as an estimate of the year's expenses, the discrepancy would be still greater.

4329 Q. Of course I understand that, but when you were on the stand before you said ten or eleven was a fair multiple to use on any of those figures. And I have asked you to give it, whether one-tenth, one-eleventh, or one-twelfth,—the three ways. And tabulate, if you will, the difference. One-tenth, is what?

A. I would like to make an explanation first, and say that when I said, roughly, you might multiply the figures by ten or eleven, as shown by Exhibit 19, to make a quick estimate of the year's earnings, I was referring only to earnings, October being a large month for earnings. At that time we were not discussing expenses, and I did not state anything about them.

Q. Well, just tabulate them, there, by the ten, eleven, and twelve times, so as to get them together in one answer.

A. Estimating the expenses of the year at ten times what they would have been for the month of October, using the tonnage shown by Exhibit 19, and the expenses per ton shown by Exhibits 28 and 29, they would amount to $970,621.74 less than the expenses shown by page 3 of Exhibit 5-2.

Using eleven times, they would amount to $647,351.89 less.

Using twelve times, they would amount to 324,082.04 less.

Q. Now, Mr. Ludlam, regarding all these items where I was speaking of stationary expenses, and which you conceded ought not to be based upon the length of the haul, or that the length of the haul has nothing to do with it, whatever may come within
4330 that classification, it is a fact that the Railroad Commissioners, and the Railroad Experts, in compiling rates, always

do take into consideration, or try to take into consideration, that the longer the haul the more that stationary expense is spread out, and therefore the less the revenue per ton per mile, or the rate charged per ton per mile; isn't that a fact?

A. The only thing I ever knew the traffic department to consider was what they could get out of it.

Q. Let us leave the traffic department out of it, because that seems to create some feeling on your part: let us take the Railroad Commissioners.

A. There is not the slightest feeling on my part.

Q. Take the Railroad Commissioners: isn't that the basis upon which they act?

A. They recognize that the short haul business pays more per ton per mile than the long haul.

Q. And that enters more or less into the question of rates?

A. The length of the haul?

Q. Yes, per ton per mile?

A. Yes, sir.

Q. This Act of 1905 contains that feature in it?

A. Yes sir.

Q. That is, the longer the haul, the less the rate?

A. Yes sir.

Q. And in that way, when you take those stationary expenses, of the terminals especially, the longer you spread it out the
4331 less the expense per ton per mile: isn't that true?

A. That applies to certain items. I would not say it applied to all items.

Q. I assume for the purposes of this question you are answering only as to those items which may be found to be such as are not dependent upon the length of the haul; you and I may differ as to that items are of that character: But, assuming there are items of that character, that is the theory, isn't it?

A. Assuming there are items of that character, the expense per ton per mile would be greater on the short haul than on the long haul.

The MASTER:

Q. If there was only one item of that character, that would be the result?

Mr. HAGERMAN: He said as to all items of yard and station service, that takes place between terminals.

The MASTER:

Q. Yes, but if there is a single item of the sort you mention, the application of the effect of that item would be to reduce the expense per ton per mile, as that is spread over the entire system?

A. I meant such items as were affected by that. Not that I considered all of the items in the general expenses would increase that way.

Mr. HAGERMAN:

Q. What items in the general expenses would you say were affected in any way by the long haul?

A. Oh, the traffic department, very materially. They give almost all their time to the long haul business. They devote very little of it to the short haul business..

4332 The attention of the general officers is much more largely taken up by the competitive business, making contracts with other roads, and negotiating with other companies, than in handling the local business.

Q. What percentage of the time, do you think, is taken by traffic men in giving particular attention to getting the long as distinguished from the short haul business?

A. As I said, practically all of it.

Q. That is upon the theory that there is more profit in the long haul than in the short haul business?

A. No sir, that is upon the theory that the short haul business takes care of itself, and has to come to them; but they have to go after the long haul business. There is no use going after what is coming to you any way. Of course, a man would be foolish to spend his time in going out after business that was bound to come to him, on the Missouri Pacific Railway; whereas, he would spend an immense amount of time trying to get business between St. Louis and Pueblo.

Q. Take roads like the Burlington, which is crossed at all points by other roads, so it has competition at every important station on its line: If your argument holds good, that practically all the expense of the traffic department is in looking after the long haul business, it would not apply to any short haul?

A. "Competition" would probably have been the better term to use than the "long haul". It is a general proposition that the further you go, the more competition you meet—that is an old railroad saying.

4333 Q. You undertook to eliminate from those expenses that ought not to be spread out, practically all the expenses of the traffic department, upon the basis that the length of the haul cut a figure: now you modify that, and say it is competitive points?

A. I did not modify it; I simply amplified it, to make my meaning clear. That is what I meant to do.

Q. Your idea is, that there is not more money made on the long haul business than on the short haul?

A. No sir, not per ton per mile.

Q. I am not talking about per ton per mile. That is one of the differences between us. We have a property here upon which we must have a return. That is what we are looking after. You may be wrong, and I may be right, or I may be wrong, and you may be right, as to how to ascertain that. So you do not aid us any when you say "per ton per mile".

A. I cannot compare it in any other way.

Q. The only way I can compare it is by way of the investment.

A. I don't think you could. Let me ask you, to illustrate, to show you that you couldn't: A shipment from St. Louis to St. Charles, of a ton of freight, you would not expect the railroad company to make as much profit as on a ton of freight from St. Louis to

San Francisco. Therefore, while you might say they make more on the long shipment, they ought to, because it is days in transit, and is going thousands of miles. You must reduce it to a unit, to permit a comparison, which will mean anything.

4334 Q. But every time you are asked a question of whether it costs more, or the revenue is more, you add to it the phrase, "per ton per mile".

A. Yes sir.

Q. That is just a method of ascertaining the thing, isn't it?

A. Yes sir.

Q. What I want to know is, whether in the light of your experience you would undertake for one moment to say that upon the money invested in the property, more money is made upon the state business, or the short haul business, than there is upon the long haul business?

A. I will answer that by saying that in my judgment, after a very careful study of the situation, the Missouri Pacific railroad made more actual net revenue out of the one and a half million dollars of state freight business that they did in the year 1904, and the same amount in the year 1905, than they did out of the four million and odd dollars of interstate business.

Q. That is, regardless of how you ascertain it?

A. Yes sir.

Q. Regardless of "per ton per mile"?

A. It is not regardless of how you ascertain it, because I spent an immense amount of labor to reach that determination.

Q. Let us come back to the question, because if it takes a week I am determined to get your best judgment about it.

A. I am willing to give it.

4335 Q. You may be right, or I may be right, but in the end, the question is decided by the investment and the returns upon it. Do you say, taking it altogether, and regardless of how you arrive at the result, that the short haul business is preferable, and more revenue is made out of it, than out of the long haul?

A. Per ton per mile——

Q. No sir, irrespective of the per ton per mile. That is a theory. Irrespective of that, and just as a general proposition?

A. I cannot compare it, unless you have a whole state. Take Missouri; I have compared Missouri, and have told you that in my judgment they have made more actual money out of the one and a half million dollars of state business than they did out of the four million dollars of interstate business. That is my very best judgment.

Q. Regardless of how you estimate it?

Mr. LADD: He told you how he gets at it.

Mr. HAGERMAN: I don't know, and I shall not desist until the Master stops me. The witness cannot dodge the question of giving me his best judgment upon the matter.

Upon this property, or any railroad property in Missouri——

Mr. LADD: It is hardly fair to Mr. Ludlam to say he is trying to dodge an answer.

Mr. HAGERMAN: He puts his theory in every time.

The MASTER: The difficulty is this: Mr. Ludlam repudiates any other theory, in arriving at the judgment he has reached,
4336 than the ton mile. He will not admit the possibility of arriving at it in any other way; therefore, he puts in the only theory he has.

Mr. Hagerman, you may put the question without respect to his theory, and if he can give an answer, without respect to the only theory he has, he may do so.

Mr. HAGERMAN: I understand, Mr. Ludlam, and I am not criticizing him for exercising his judgment. He is entitled to do it, just as much as I am entitled to exercise mine, and you yours, in the end. But this is the question I wish to ask him:

Eliminating the ton mile, what do you say about that?

A. I would not express any off-hand opinion as to the relative cost or the relative profits of the two classes of business, except as the result of mathematical calculations which I have made. I have seen too many opinions expressed in this case that were in my judgment altogether wrong, to care to express just an off-hand opinion.

The opinion I have expressed is based absolutely on the figures we have made, and the study we have made, and the work we have done, in this case, and it is all predicated on the per ton per mile cost.

Q. And, unless you can predicate it upon the per ton per mile basis, you have not any opinion to express.

A. I would not care to express an opinion, except it was worked out on the most reliable and scientific basis that could be
4337 obtained.

Q. You have not, and did not intend to express any opinion whatsoever, except it is based upon the per ton per mile basis; Am I right about that?

A. Yes sir, you are right.

The usual hour for adjournment having arrived, the further hearing of testimony herein was adjourned to to-morrow, Saturday, March 2, 1907, at ten o'clock, A. M.

At the request of Counsel representing both sides, the further hearing of testimony herein is adjourned to Tuesday, March 5th, 1907, at ten o'clock, A. M., then to be resumed in the Federal Building in the City of St. Louis, Missouri.

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4339 ST. LOUIS, MO., *March 5th*, 1907.

At the request of Counsel, the hearing is postponed until Wednesday, March 6th, 1907.

ST. LOUIS, MO., *March 6th*, 1907.

Met, pursuant to adjournment as above, on Wednesday, March 6th, 1907, at ten o'clock A. M., in the Federal Building, City of St. Louis, Missouri.

Present: Hon. F. L. Schofield, Special Master.

Mr. Frank Hagerman appeared in behalf of the Complainant.

Messrs. S. B. Ladd and John Kennish appeared in behalf of the Defendant.

The following proceedings were had.

Cross-examination of C. S. LUDLAM, Continued, as follows:

By Mr. HAGERMAN:

Q. Exhibits 28 and 29 were gotten up on the theory, first, that the first column, headed "Single Cost," was based on the figures taken from Form 1940 or Form 1941?

Q. Yes sir. I would like to say there, that both of those forms 1940 and 1941, being Exhibits 26 and 27, include the company freight; whereas Exhibit 19 and Exhibit 5-*a* relate to revenue freight only.

Q. But Exhibits 28 and 29 would include the Company freight?

A. Yes sir.

Q. Then you take the different items, under the heading of "Single Cost," in the first column, and give the cost ascertained upon the *vasis* of *Froms* 1940 and 1941?

4340 A. Yes sir.

Q. And then you apply your multiple to such portions of the items as you think there ought to be an allowance for increased cost, and for nothing more: isn't that the theory upon which you have gotten it up?

A. I allow an increased cost on the items of "Train service" and "Engine service".

Q. But on nothing else.

A. But on nothing else per ton; although I apply the same cost for station and yard service to both the state and the interstate.

Q. I understand that: But before I get now to the difference in mileage: you take, of the items constituting "Conducting Transportation" those that cover train and engine service, and allow an increased cost on state over interstate, on account of these items?

A. Yes sir.

Q. But on nothing else?

A. Well, I think I would say there was an allowance for increased cost of station and yard service, inasmuch as the same figure is used in both cases, and the mileage is different.

Q. Which is the item of train and station service—that is the first one?

A. Station and yard service is one.

Q. That is the first item in Exhibits 28 and 29?

A. Yes sir.

Q. That same figure seems to have been carried through where you double the cost of doing the state business, and where you treble it?

A. Yes sir.

4341 Q. Therefore I assume you did not apply, in your judgment, any increased allowance on that item?

A. No sir. That item was the cost per ton, without regard to the distance hauled.

Q. Why do you, as to one of the items, put it as to the average cost per ton, regardless of the distance hauled, so as to make it the same in both cases; and then as to the other items, in every one of them, use the per ton per mile basis?

A. Because we think the tonnage would be a more correct basis for the first item, and that the per ton per mile would be the more correct basis for the rest of the items.

Q. Separating the two for the first item, at least for station and yard service, you think it would not do to take an item like that and deal with it on the per ton per mile basis, in any way whatsoever?

A. I think the basis of the number of tons is fairer?

Q. And you do think the per ton per mile basis ought not to apply to station of yard service?

A. Not to the same extent as it would to the other items, although I do think the station and yard service is greater for the long haul than it is for the short haul.

Q. You have gotten these statements up on the theory that, as far as station and yard service are concerned, there should not be any calculation made on the per ton per mile basis, haven't you?

A. I would not say I had gotten these up on the theory that they should not be, but rather on what the results would be if there was no extra allowance.

4342 Q. You did get them up on the theory that there should not be any extra allowance?

A. Yes sir.

A. And you did that because, as you said a moment ago, you thought it would be fairer?

A. Yes sir.

Q. What do you say as to the maintenance of way at terminals, and maintenance of structures, and equipment: would not the same rule apply?

A. No sir, I don't think so.

Q. What difference would you make in that case?

A. Because the tracks at the terminals are more in proportion to the length of the haul, than the station service or the yard service.

Q. Would that be so as to the buildings?

A. No sir, I don't think it would.

Q. That is, the average cost per ton, as distinguished from ton mile, would be the fairer basis, as to that?

A. Yes sir, I think it would, although, of course, in that connection you will have to consider the fact that taking the less than carload business as a general proposition, the further it goes the more often it would be transferred, and the more it would use those buildings.

I might say in that connection, that the printed report of the Company——

Q. You mean the Annual Report?

A. No sir. Sheet No. 7 of Form 1939 shows that the total maintenance of way and structures expenses during the year end-
4343 ing June 30, 1906, amounting to $5,378,125.37 only $342,-796.02 related to maintenance of buildings and grounds.

Q. So far as the maintenance of buildings and grounds is concerned, you would say the same thing as to this first item, that would be on the per ton basis, as distinguished from the per ton mile basis?

A. Yes sir, I think that would be a fair way.

Q. Are there any other elements of expense, not limiting yourself to "Conducting Transportation", but to the expenses as we set them out, on the assumption that they are proper expenses, where you would ascertain the expenses per ton, as distinguished from per ton mile, as the fair method?

A. No sir, there are none that occur to me?

Q. That is, none of the general expenses should be dealt with in that way?

A. No sir, In connection with the general expenses, I would say that the movement of freight was under the jurisdiction of the general officers just as long as it was on the road.

Q. Let me get these different items and see. Take the maintenance of way and structures: should that be dealt with in that way?

A. No sir.

Q. Or maintenance of equipment?

A. No sir.

Q. Outside of what you have said as to "Conducting Trans-
4344 portation", as shown by Exhibits 28 and 29, you would not apply the ton basis, as distinguished from the per ton mile?

A. No sir.

Q. Take Loss and Damage"?

A. I think it is fairer to distribute that on the basis of per ton per mile.

Q. But suppose this loss and damage came from this yard and station service, which you distinguish on the per ton basis, from the per ton mile basis?

A. I think the further your freight goes, and the more times it is interchanged with other lines, the more apt you are to have loss and damage claims.

Q. I am talking about the loss and damage and injury claims that come from this station and yard service, which you divide on the per ton basis, as distinguished from per ton mile: If that is fairly divided in that way, as you say, why should the injuries to persons, or loss and damage from that particular service, be distriubted on the per ton mile basis?

A. I think that is the fairest way to distribute it. I think the further the freight goes, the more apt you are to have loss and damage, and the more likelihood there is to be injuries to persons, and property.

Q. Speaking for myself, I cannot for the life of me see, if you are right, that as to station and yard service the expense should be ascertained per ton, as distinguished from per ton mile, why such portion of the loss that arises from station and yard service
4345 should not be distributed in the same way?

A. There is no way, so far as I know, of determining what proportion of the loss and damage from the terminal and yard service——

Q. Suppose in the station and yard service a man is injured on the engine while it is engaged in yard service.

A. It is charged just the same as if he were injured while on the road.

Q. Suppose property is injured in the yard service?

A. It is charged just the same. And, furthermore, a shipment of freight moving through two terminals, assuming the terminal is responsible for the larger part of the damage, would be twice as liable to loss as a shipment moving through one terminal.

Q. Taking the item of "General Expenses," you would distribute all the general expenses per ton mile, and not per ton, wouldn't you?

A. Yes sir.

Q. And yet a great portion of that would not necessarily be dependent upon the haul at all, would it?

A. I should think it would apply altogether to the haul, Mr. Hagerman.

Q. You cannot conceive of any item of general expenses, including agencies and advertising, that would not be dependent upon the length of the haul?

A. No sir. I would think the time of the agents, which
4346 would be included in general expenses, if there is any, and the advertising, would apply more to the long haul business than to the short haul business.

Q. The point I am making is, there is not an item under the head of "General Expenses" but what ought to be divided upon the basis of the length of the haul?

A. That is my judgment.

Q. That is all I am asking you for.

Taking the question of taxes, would you deal with taxes in the same way?

Of course, you do not treat, in your exhibits, at all of taxes as expenses, but I am assuming now, on our side, that it is an expense. If you were going to deal with it, what would you say about that? Would it be fair to deal with it on the basis of per ton, or per ton mile?

A. I should say, off-hand, it would be fair to distribute that on the basis of ton miles. But before expressing that as a definite opinion, I would want to study somewhat the tax laws in this state.

In some states—I am not sure it is so in this State—the question of earnings, is an element that is considered when taxes are assessed. And in the case of franchise values that would be particularly so. If that entered into the taxes assessed in the state of Missouri, and the earnings were greater per ton on the state freight, or per ton per mile on the state freight, then it would probably be fair to assess a larger proportion of the taxes to the state freight.

Q. Notwithstanding that a portion of the taxes might be charged upon these very things, it would be fairer to estimate the
4347 average cost per ton as distinguished from ton miles, still your judgment would be that upon the taxes it should be measured in accordance with the haul?

A. There are no items, I believe, upon which I said it would be fairer to assess upon a ton mile basis that would relate to taxes, except maintenance of buildings; and that would be such a small proportion of the whole that it would not cut any perceptible figure either way.

The main item which I said I thought it would be fairer to distribute on the basis of the tonnage rather than the ton miles, is the station and yard service expense.

Q. That you have already allowed for, in your exhibits 28 and 29?

A. That is mainly labor and supplies, and would not be subject to taxation.

Q. I would say that if you had any right to set aside the station and yard service on that account, the things which were used in that station and yard service ought to be based in the same way: You won't go that far, will you?

A. Hardly that far, because, as I have said before, those tracks in the terminals and the buildings in the terminals, are used more the further the business goes.

Q. What would you do with the interest on the bonded indebtedness?

A. We have not considered the subject of interest on the bonded indebtedness.

Q. But I am considering it now, on the assumption that it is something which should be considered.

4348 A. I would like to say, since you have raised the point that we have not checked the interest and found it correct, because we did not check that item. We thought the interest was a question that would be applied to the value of the property, which would be passed upon by the Court.

Q. I have passed by Exhibit 5-*a* as being correct. You can check that, can't you, by the Annual Report?

Mr. LADD: We do not criticise that item. But Mr. Ludlam thought it had been checked.

Mr. HAGERMAN: I went through with considerable pains and took considerable time to find out just what items were objected to. Now, as I understand it, you are not criticising it, but all you want to say is that Mr. Ludlam personally did not check it up?

Mr. LADD: That means the amount, of course. We do not attack the amount, but assume that it is correct.

Mr. HAGERMAN:

Q. Assuming that we are to make a distribution of interest on the bonded indebtedness, wouldn't you say the fairer way would be to distribute the proportion that applies to these fixed items, where you say it ought to be ascertained upon the cost per ton, as distinguished from the cost per ton mile, and should apply to that?

A. Yes sir, in the case of those items where I say it would be fairer to apply it on the per ton, rather than per ton mile, I would say the interest, where it relates to those items, should be correspondingly distributed.

Q. That is to say, wherever it is interest upon those items where you said you would use the per ton, as distinguished from
4349 per ton mile, that interest should be applied likewise?

A. Yes sir.

Q. So the result of all this distribution is, according to your judgment, the expenses as to certain items, ought to be ascertained per ton, and as to others upon the per ton mile basis?

A. I said I thought, in the case of station and yard service, it would be fairer upon the per ton basis; and in the case of maintenance of buildings, possibly.

Q. So, when you get to the end of it, possibly, like the expression you used in reference to the valuation of the property, if you wanted simplicity the revenue basis would be the simple way—That is, regardless of your judgment as to fairness?

A. I said the gross earnings would be a simple way to distribute the value of the property.

Q. Well, I will say "a simple way": So far as ascertaining the cost, the gross earnings would be a simple way?

A. No sir.

Q. It would not be a simple way? In the distribution of the total expense of the doing of the business in Missouri, as between state and interstate, would not the simplest way you can conceive of be on the revenue basis?

A. Yes sir, the simplest and the most inaccurate.

Q. I will give you the benefit of your judgment as to the inaccuracy; but so far as simplicity is concerned, that is true?

A. It would be very simple.

4350 Q. All on earth you would have to do would be to ascertain what percentage of the revenue was state, and then take that percentage of the total expenses: Isn't that true?

A. Yes sir.

Q. Now, then, the average haul you ascertained to be 100 miles, based upon your Exhibit 19?

A. Yes sir.

Q. And that is as far as you can use Exhibit 19 in either Exhibits 28 or 29, is it?

A. No sir, we also show on the next to the last line on each exhibit, the average amount received per ton on each class of freight.

Q. By Exhibit 19?
A. Yes sir.
Q. So, in the preparation of this Exhibit, in the first line, you get the average cost per ton, according to Form 1940?
A. Yes sir.
Q. And then you get the other items on the basis of tons per mile, from Form 1941?
A. Forms 1940 and 1941.
Q. But when you come to the next to the last column, for the purpose of comparison, you set out the average amount received per ton, as shown by Exhibit 19?
A. Yes sir.
Q. And then you use the haul, as shown by Exhibit 19, for the basis of the second and third columns of figures in each exhibit, where you have doubled or trebled?
4351 A. Yes sir.
Q. The use of the average haul does not enter into the first column, at all, does it?
A. No sir.
Q. Those are just the figures exactly as they appear in Forms 1940 and 1941?
A. Yes sir.
Q. Now, let us take Exhibit 30: what does that purport to be?
A. That purports to be a statement of the gross earnings, operating expenses, and net earnings of the freight business of the Missouri Pacific Railway in Missouri, during the calendar year 1905, on various bases.
Q. Let me go through and get that: In the first instance, you take the interstate freight earnings, as shown by Complainant's Exhibit 5, page 3?
A. Yes sir.
Q. And you take 80.99 per cent thereof as having been derived from the carload business?
A. Yes sir.
Q. Upon what do you base that calculation of 40.99 per cent being composed of carload business?
A. The analysis of the month of October, 1905, shown by Exhibit 19, showed that 80.99 per cent of the total interstate freight earnings were derived from the carload business.
Q. Where does 80.99 per cent appear in Exhibit 19, if it appears at all?
A. It does not appear in Exhibit 19, but the freight earn-
4352 ings from interstate business are shown by this exhibit to amount to $377,704.90.
Q. That is in column 3 of Exhibit 19?
A. Yes sir. And the same exhibit, and the same column shows, that of that amount $305,905.31 was derived from the carload business; and $305,905.31 is 80.99 per cent of $377,704.90.
Q. You ascertained the percentages from the figures given in Exhibit 19, and applied them to the figures in Exhibit 5, did you?
A. Yes sir.

Q. And yet, if Exhibit 19 be carried out upon the basis of one-tenth, one-eleventh, or one-twelfth part of a year, there will be a very substantial difference between Exhibit 5 and the result, will there not?

A. No sir, the ratio of percentage will be exactly the same, because, whether you multiply by ten, eleven, or twelve, you multiply each one of those figures by the same number.

Q. But what I am getting at is the 19.01 is ascertained by the same method of calculation, on your Exhibit 19, as to less than carload business?

A. Yes sir.

Q. You say "Interstate earnings for service incidental to freight traffic" have been added to earnings derived from interstate carload business: What does that mean?

A. Exhibit 5-*a*, page 3, shows that the interstate earnings from services incidental to freight traffic amounted to $231,043.79,
4353 and that means that after having divided the interstate earnings as shown by Exhibit 5-*a*, between carload and less than carload, on the basis of the percentages shown by Exhibit 19, that the earnings incidental to the freight traffic have been added to the carload business, those earnings being almost exclusively derived from carload business, switching, demurrage, etc.

Q. Why should switching be derived exclusively from carload business? Don't they switch cars containing less than carload lots, and don't they charge demurrage on cars containing less than carload lots?

A. They might switch cars containing less than carload lots, but they would not charge demurrage on less than carload lots.

Q. Why? If a less than carload lot would come to me as the last person to whom it was being delivered, and I would keep the car, demurrage would be charged on it, wouldn't it?

A. No sir. The freight in the car would be unloaded into the warehouse, and the car would become immediately available.

Q. At all times.

A. As a general proposition.

Q. Suppose it was delivered at a public warehouse—that is not an inconceivable thing, is it?

A. In the sense you use it, I think it is.

Q. Suppose it is unloaded at the warehouse of a connecting road?

A. In either case, the car would become immediately available.

4354 & 4355 Q. But suppose it would not; suppose the company would not give the car back; demurrage is nothing more than a charge for the use of a car over a given length of time?

A. One railroad company does not charge another railroad company demurrage.

Q. It would have to be an independent warehouse company before there could be any demurrage charged?

A. I would not say that. That would not have anything to do with the question. The question would be whether the freight would remain in the car, and whether they would pay demurrage on the car.

Q. My understanding is, that if a railroad company's equipment is out of its hands a certain length of time, it is paid for. If the shipper has it, it is called demurrage; and if some other railroad company has it, it is paid upon some agreed basis, under Car Service rules; isn't that all the difference?

A. Yes sir. But that would not apply to less than carload business.

Q. For the purposes of the argument, we will pass that; and you must concede that the less than carload business is switched, and that earnings from switching would cover less than carload as well as carload business?

A. No sir. They do not collect earnings for switching less than carload stuff. That is unloaded at the warehouse—that is, as a general proposition. I do not say that the Missouri Pacific Railway at Kansas City might not, as an accommodation to the Chicago,
4356 Milwaukee & St. Paul, switch a car that might happen to have a few less than carload shipments in it. But even so, that would not be regarded by the railroad company as a switching charge on less than carload business.

Q. I do not know where you get the right to charge, in your judgment, all the switching of carload lots, except that is arbitrarily your judgment that it should go there.

A. I do not charge it, but credit it. And in the second place, as it is earnings from interstate business, it is absolutely immaterial whether you put it in carloads or less than carloads, because those figures are intended to distribute altogether between state and interstate business.

Q. You did take that $231,000 and add it to the carload business, regardless of whether it was earned in the carload business, or not?

A. We added it to the carload business, but I would not say "regardless", because we have no question but that at least 99 per cent of it came from the car-load business.

Q. But you have no knowledge upon the subject?

A. Oh, yes we have knowledge, from our examination of the Company's accounts.

Q. Anything more than you have explained?

A. No sir.

Q. Take your second assumption: you assume the state freight earnings to be $1,632,356.14, as shown by Exhibit 5?

A. Yes sir.

Q. And then you calculate the percentage as between carload and less than carload business, from Exhibit 19, the same as
4357 you did with the interstate business in your first assumption?

A. Yes sir.

Q. In the first assumption you took the interstate freight earnings, $3,777,390.45?

A. Yes sir:

Q. And have you compared that with Exhibit 19, the interstate gross earnings for one month, $377,704.90?

A. Yes sir.

Q. Or, about one-tenth?

A. Yes sir.

Q. Then you take in the second assumption the $1,632,856.14 from Exhibit 5-*a*, and if you apply the gross revenue from the state carload business for the month of October, as shown by Exhibit 19, what proportion is that—about one-twelfth, or more?

A. You mean state carload, or total state?

Q. Total state.

A. It would be something less than one-twelfth.

Q. In round numbers, about one-twelfth?

A. Yes sir.

Q. So Exhibit 19 has this situation surrounding it: that as to the total interstate business, it is about one-tenth of the total interstate, as shown by Exhibit 5; and as to the total state revenue about one-twelfth?

A. Yes sir.

Q. In the same way, in this second assumption, upon Exhibit 30, you add the amount $25,671.53, earnings from services in-
4358 cidental to freight traffic, to the state carload business?

A. Yes sir.

Q. Of course, it is more favorable to your figures, and for the purposes of your comparison, to get as much in the state carload business as possible, isn't it? That is to say, the more you can get in the carload business, the more favorable your showing upon your theory?

A. No sir, because the premises that follow in this exhibit are that the state carload business costs twice as much as the interstate carload business per ton per mile; whereas, the state less than carload business is figured to cost the same per ton per mile as the interstate less than carload business. So, when you increase the state carload business—No,—no, that would not apply to the distribution of the expenses.

Q. But what I am getting at is, that the general statement, for the purposes of showing you are attempting to make, by Exhibit 30, is that the more that would go into the state carload business, the more favorable the showing according to your theory?

A. I don't think so.

Q. Suppose you take them out, would it be any less favorable to you?

A. No sir, I think if the comparison were made, excluding miscellaneous earnings in both state and interstate, the comparison would be more favorable to us, because the state earnings are
4359 over one-third of the interstate earnings from the entire business in both cases, as shown by Exhibit 19. Whereas, the miscellaneous earnings are only one-tenth of the total apportioned to the state.

Q. Suppose a substantial part of these earnings incidental to freight traffic, were take- out and put into less than carload; would it make any difference?

A. It would not make any difference at all in the final figure of net earnings.

Q. It would not affect the result in any way?

A. Not the final result of the state business, whether you put them into the carload or less than carload business.

Q. I am not asking you about the final result on state business, but I am asking you, for the purposes you are putting in this statement, for your purpose of making the best showing, that if you take out a part of that stuff, incidental to freight earnings, and put it in the less than carload lots, your showing would not be as favorable for your theory.

A. We were not considering the question of whether it was favorable or unfavorable to our theory.

Q. I am not saying you were, Mr. Ludlam; but if they were taken out and put there, it would not be as favorable to you?

A. We put them in there because we thought they properly belonged there, and that it was the only place to put them.

Q. Let me give you credit for doing everything fair, and for no other motive on earth, but answer my question fairly: if that portion of them were taken out and put into the less than car-
4360 load lots, it would make a showing less favorable than that which you are seeking to make for the State?

A. No sir, it would not make the slightest bit of difference, in my judgment, whether we credited it to state less than carloads, or state carloads. It would still be credited to the state.

Q. And it would not, therefore, affect your showing in any way?

A. Not in the total, but it would be distribution between carloads and less than carloads.

Q. That is the whole purpose of the exhibit, to show that?

A. That was not my understanding of the exhibit, then. My understanding of the exhibit, Mr. Hagerman, was to show the result from the state business, and the result from the interstate business.

Q. We will pass now to your third assumption: That is to say, that the Company's earnings in Missouri from the interstate carload business averaged 6⅞ mills per ton per mile: that is based entirely upon Exhibit 19?

A. Yes sir.

Q. And you take, for the purposes of the assumption, th*ha*ose figures from Exhibit 19?

A. Yes sir.

Q. And the fourth assumption is taken solely from Exhibit 19?

A. Yes sir.

Q. That is to say, that the Company's earnings in Mis-
4361 souri from interstate less than carload business averaged 2.81 cents per ton mile?

A. Yes sir, approximately.

Q. Your next assumption is as to the state carload and state less than carload business, bared wholly upon Exhibit 19?

A. Yes sir, the next two assumptions, the fifth and the sixth.

Q. What is the seventh? You assume the total operating expenses of the state carload business as being twice as much per ton mile as the total operating expenses of the interstate carload business: Now, what did you include in total operating expenses?

A. The total operating expenses as shown by the original statement filed by the Missouri Pacific Company.

Q. As shown by Exhibit 5?

A. Yes sir; Or $4,234,884. These expenses were subsequently corrected by the Company, as shown by page 3 of Exhibit 5-*a*, to $4,203,320.24.

Q. But it is the total operating expenses for 1905, from the Company's Exhibit 5, that you have assumed to be the total operating expenses in your seventh and eighth assumptions here?

A. Yes sir.

Q. Then as to the carload business, you estimate that it costs twice as much per ton per mile to carry the state carload business as it does the interstate?

A. This exhibit is prepared on that basis.

4362 Q. Why did you prepare it upon that basis? Did you believe it to be true?

A. No sir.

Q. Why do you make up a statement and bring it into the court, if you do not believe it to be true?

A. To show what the result would be if the state carload business did cost twice as much per ton per mile as the interstate carload business.

Q. That is the sole reason why you have gotten it up on that basis?

A. And to meet certain testimony that has been given.

Q. What testimony have you in mind, that it is to meet?

A. That the state carload business costs a great deal more for all the operating expenses than the interstate carload business.

Q. Upon what testimony in the case is the statement based or can you find any foundation for the statement that the state carload business costs twice as much per ton per mile as the interstate carload business can you tell me any testimony upon which it is based?

A. Mr. Miller's testimony.

Q. Mr. Miller has not testified in this case. Is there anybody else?

The MASTER: Mr. Miller testified in the Wabash case.

Mr. HAGERMAN: I am talking about this case. This exhibit is prepared for the Missouri Pacific case.

A. I cannot recall any testimony just now. I am not sure

4363 but what Mr. Elliott and Mr. Stewart referred to that.

Q. In your judgment, what is the extra cost of doing the state carload business over the interstate carload business?

A. Somewhere from ten to twenty-five per cent.

Q. Take the eighth assumption: I believe you said the total operating expenses there were the total operating expenses as shown by Exhibit 5; that excludes taxes, rental, and interest?

A. Yes sir.

Q. And you have prepared that upon the basis of the less than carload state business costing three times, five times, and seven times as much per ton per mile as the interstate carload business?

A. Both the state and the interstate costing that.

Q. Excuse me, but I did not gather the meaning. In other words, this is based upon the theory that both state and interstate less than

carload business costs three, five or seven times as much as the interstate carload business?

A. Yes sir.

Q. That is surely based upon nobody's testimony. That is the first time I have heard any comparison of that kind made. If you can refer me to anybody's testimony, I should like to know whose it is. I have been assuming as you approached that question that you were making a comparison between state carload and interstate less than carload, but I see I was wrong about that. Upon what testimony do you base that statement say at all?

A. Yes sir. There has been a great deal of discussion
4364 as to the question of carload and less than carload. I don't know that I could say that this was based upon anybody's opinion as to relative cost.

Q. If it is based upon anybody's opinion, it must be upon your own, because every witness for the Complainant has said, taking everything into consideration and lumping the whole thing, he would not attempt to distinguish.

Now, how much more do you say it costs to do the less than carload, both state and interstate, than the interstate carload business?

A. I would make an estimate on that, on the less than carload business, both state and interstate, costing somewhere from three to five times as much per ton per mile as the interstate carload business.

Q. Wouldn't you give us this benefit of it, Mr. Ludlam, that however the cost is ascertained, if it is accurately ascertained, that that multiple should be used?

A. The multiple I have just given you?

Q. Yes.

A. I thought my statement covered that point.

Q. No sir, your statement says "per ton per mile," and it may be right; and it may be that you are right; and that is the way to ascertain the cost, or it may be that I am right, or that some other witness is right, and that it should be ascertained in some other way; but are you willing, however it is ascertained, and whatever it costs, whether it costs three, five or seven times as much, or from three to seven times as much, to do the less than carload business,
4365 both state and interstate, as it does to do the interstate carload business—would you be willing to go that far?

A. No sir, I would not be willing; if it was determined that it was proper to assume, for instance, that the ton basis was the correct basis, I would not be willing to say that in my judgment it would cost from three to five times as much to move a box of drygoods ten miles as it would cost to move a car from New York to San Francisco.

Q. What I am trying to get at, is, will you leave it to the judgment of others, the way to ascertain the cost, assuming it could be accurately ascertained in the first instance what the cost was to handle the interstate carload business, and you are going to accurately ascertain that, you would be willing to say that in your judgment it costs from three to seven times more to handle the less than carload business?

A. If you can reduce it to a unit I can compare it with, I would.
Q. And without that you would not?
A. No, sir.
Q. In other words, in regard to this question comes the situation we had the other day—Eliminate the question of ton miles, and you would not give any opinion whatever.
A. No sir, I would not compare a known quantity with an unknown quantity.
Q. Cannot you in fairness answer as you did the other day; that *that* unless you can base your opinion upon the ton mile basis, you will not give any opinion at all.
A. Yes sir.
4366 You are willing to say that?
A. Yes sir.
Q. Turn to page 2 of this Exhibit 30, and to item 6, the total state business: the first figure showing the gross business is taken from Exhibit 5, is it?
A. Yes sir.
Q. And your item of operating expenses is taken from what, from the calculation made on this exhibit?
A. Yes sir.

The MASTER:

Q. Before passing from the subject just under consideration, Mr. Ludlam, have you any opinion as to the relative cost per ton mile of transporting the state less than carload, as compared with the state carload business? You compare both in this statement with the cost of the interstate carload business: Have you any opinion as to the relative cost of state less than carload and state carload business per ton mile?
A. I should say, in a broad sense, that it would cost somewhere from three to five times as much, if I were making an estimate.
Q. Then you would put the carload business, both state and interstate, as costing substantially the same?
Mr. HAGERMAN: He says three to seven times as much.
A. No sir, not quite. I think the state carload business per ton per mile costs a little more, on the average, than the interstate carload business per ton per mile. But I think my estimate of the less than carload business, of three to five, which is the same
4367 when compared with the interstate as when compared with the state, would cover that difference.

Mr. HAGERMAN:

Q. Are your figures three to seven?
A. No sir, three to five.

The MASTER:

Q. You think the belt is broad enough to cover both comparisons?
A. Yes, sir, I think the belt, between three to five, is broad enough to cover the comparison, whether made with the cost of the interstate

carload per ton per mile, or with the state carload per ton per mile, although I think the state carload per ton per mile, is a little in excess of the interstate carload per ton per mile.

Mr. HAGERMAN:

Q. When you have deducted in Item 6 of Exhibit 30 your operating expenses, ascertained, as you say, from your gross business, you have in the first column $466,831.31?

A. Yes sir.

Q. But that allows nothing for taxes, rentals, or interest on bonded indebtedness.

A. No sir.

Q. In division 9 you have got ton miles there: how do you ascertain that ton mileage?

A. On the basis of the figures shown in Exhibit 19, applied to the earnings shown by Exhibit 5-*a*.

Q. Let us do that example: You take the earnings as shown by Exhibit 5-*a*: What figures do you take from Exhibit 19?

A. First we take the interstate earnings, as shown by page 3 of Exhibit 5-*a*, and we divide that between carload and less than carload, on the basis of the division which obtained
4368 During the month of October, 1905, as shown by Exhibit 19. Having thus determined the carload earnings, we divided that——

Q. Let us get more specific than that. Give me the column of Exhibit 19 where you get that?

A. We used Column 3.

Q. That is the gross revenue?

A. Yes sir.

Q. I thought you took the gross revenue as shown by Exhibit 5-*a*?

A. We do; but we divide that gross revenue as shown by Exhibit 5-*a*, by the percentages which obtained during the month of October, between carload and less than carload on interstate earnings, as shown by Column 3 of Exhibit 19.

Q. Yes, but you have it reduced to ten miles. That is simply dividing the revenue.

A. That is dividing the total interstate revenue for the purpose of determining how much of it was realized from carload, and how much from less than carload business.

Q. I understand that about getting your revenue. But now I am getting down to ton miles. You have revenue now.

A. Having determined how much revenue was derived from the carload interstate business, we di*f*ced that revenue by the average earnings per ton per mile, shown by Exhibit 19, column 8, which is .6667 mills per ton per mile, approximately, and we divided that into the carload revenue, and that gives us the number of ton miles of carload interstate freight. We followed the same form throughout.

Q. Let me see if I understand that, because I want it clearly
4369 in my own head, Mr. Ludlam. In the first place, you start out with Exhibit 19 and exhibit 5, to find out, using Exhibit

19 as the basis, how much of your earnings came from carload and less than carload state and interstate business?

A. Yes sir.

Q. And you took Exhibit 19, and took the percentages from that?

A. Yes sir.

Q. And those percentages you applied to the earnings as shown by Exhibit 5?

A. Yes sir.

Q. That gave you a total sum of money?

A. That divides the total sum of money shown by Exhibit 5, between state and interstate, carload and less than carload.

Q. And yet, right at the start, in order to make Exhibit 19 compare with anything like the return for 1905, you use the multiple of ten upon the total interstate business, and practically the multiple of twelve upon the state business?

A. We do not use a multiple; we use the percentages.

Q. You would have to do that to make them practically the same?

A. Yes sir.

Q. Having ascertained the proportion of the revenue as shown by Exhibit 5, which by the percentages worked out from Column 3 of Exhibit 19, you get a theory by which you have divided the state and interstate earnings, as shown by Exhibit 5, into earnings from carload and less than carload, state and interstate?

A. Yes sir.

4370 Q. You take and divide that by the figures shown in column 5?

A. Yes sir, by the figures shown in column 8.

Q. So the returns thus shown as to interstate carloads would be divided by .6667, as shown by Exhibit 19, column 8?

A. Yes sir.

Q. And that would give 458,873,335 ton miles?

A. Yes sir.

Q. Now I would like to ascertain, right here, upon that basis, the tonnage, regardless of ton miles; how can we do that example?

A. By taking the figures shown in column 1 of Exhibit 19.

Q. Before we get that, I would like to put on my Exhibit 19 these percentages you get to apply to our credit.

A. They are shown by Exhibit 30, Mr. Hagerman.

Q. Where?

Q. Right here (indicating).

Q. Those percentages are explained by Exhibit 30, are they?

A. Yes sir.

Q. Now, to get the tonnage upon that same basis, how would you work it out?

A. You would take the number of tons, as shown by column 1 of Exhibit 19, and find the percentage which the carload (being 442,261 tons) was of the total interstate tonnage (being 459,501 tons). Do you want that figured?

Q. I don't care about the carload and less than carload, but I would like to have the tonnage, state and interstate, worked

4371 out upon that basis.

A. Upon the percentage basis?

Q. Just as you worked out the other example.

A. The other example was worked out between carload and less than carload. The percentage of the total tons, as shown by column 2, of Exhibit 19. But that does not show the proportion of the total interstate which was carload, and the proportion of the total which was less than carload.

Q. I thought you had figured out here in Exhibit 30, Item 9, on a ton mile theory, the number of ton miles: Now, could you figure out the number of tons upon that same theory?

A. Yes sir.

Q. How will you do that, and what will be the result?

A. Do you want it to be separated between carload and less than carload?

Q. I don't care about it being separated, unless it affects the result in some way.

The MASTER: You want the total tonnage, both carload and less than carload, and state and interstate?

Mr. HAGERMAN: The result will not be 75.26 and 24.74, as shown by column 2 of Exhibit 19?

A. I cannot tell without working it out. But the way to do that, to get the number of tons, would be to take the average earnings, as shown by Column 5, 82.2 cents, and divide that into the total interstate earnings, of $3,777,390.45, and that would give you the total number of tons of interstate.

Q. Without figuring on the first at all?

A. Yes sir.

4372 Q. Let us see what that amounts to?

A. (After calculating.) 4,595,366, I make it.

Q. Of interstate tonnage?

A. Yes sir.

Q. And how much of state?

A. 1,884,862.

Q. I have the percentages, state 29.09 and interstate 70.91: what do you say to those?

A. Of those two figures?

Q. Yes.

A. 29.09 for the state, and 70.91 for the interstate, these figures being subject to verification.

Q. Certainly. Turning again to Exhibit 30, Item 9, that shows the total interstate ton miles, calculated, as you say, and the total state ton miles: Now what are the respective percentages as between those two, based upon Exhibit 30?

A. That would make the state 16.86, and the interstate 83.14 per cent.

Q. That is to say, upon the basis on which you have prepared Exhibit 30, starting to find out the number of ton miles, and the number of tons, to be applied to Exhibit 5-*a*, the result is, as you have indicated by these figures, including therein the percentages?

A. Not upon the basis upon which I started out to prepare Exhibit 30.

Q. Porbably I am a little inaccurate. Upon the basis you have ascertained the ton miles in Item 9 of Exhibit 30: That
4373 is accurately speaking, isn't it?

A. Yes sir. But the percentage of the tons is determined from the figures shown by Exhibit 19, the same as the ton miles.

Q. The result of this tabulation I hand you in the form of an exhibit, and I will ask you if that is as you have given it?

A. (After examining paper.) Yes sir.

Mr. HAGERMAN: I will offer in evidence this paper as Complainant's Exhibit 30-*a*.

Exhibit 30- is in the words and figures following, to-wit:

4374 Q. Passing from that to Exhibit 31, Item 9 of Exhibit 31 as to ton miles, corresponds with Item 9 of Exhibit 30, doesn't it?

A. Yes sir.

Q. Now what is the real difference between Exhibits 30 and 31?

A. There are two essential differences: one is, that this (indicating) treats with increasing that portion of the operating expenses designated as "Conducting Transportation" only. The second difference is——

Q. Let me get the first difference first. In Exhibit 30 you take all the operating expenses as shown by Exhibit 5-*a*, with the exception of taxes, rentals, and interest?

A. Yes sir, we take all the operating expenses.

Q. What we call the "Operating Expenses"?

A. Yes sir.

Q. In Exhibit 31, the first difference is that you make similar calculations, treating as operating expenses only the items of "Conducting Transportation"?

A. No sir, we include all the operating expenses, but increase only that portion which is "Conducting Transportation."

Q. You include all the operating expenses shown by Exhibit 5-*a*, but use your multiple only upon the items which pertain to "Conducting transportation"?

A. Yes sir.

Q. What is the next difference?

A. The next difference is that this exhibit (indicating)
4375 has one more column in which the result is shown if that portion of the operating expenses known as "Conducting Transportation" costs five times as much per ton per mile in the case of the state carload business, and fifteen times as much per ton per mile in the case of less than carload business, as the interstate carload business.

Q. That is to say, in Item 8 of Exhibit 31, as compared with Item 8 of Exhibit 30, you assume, for the purposes of the statement, that the less than carload business, state and interstate, costs three, five, seven, or fifteen times more than the interstate carload business?

A. That portion of the expenses.

Q. Whereas, in Exhibit 30 the assumption was three, five and seven times only?

A. Yes sir; and with the further difference that the last column of Exhibit 31 treats that portion of the operating expenses designated as "Conducting Transportation" as costing five times as much in the case of the state carload as in the case of the interstate carload business.

Q. With the further exception that in Exhibit 31, in the last column, you assume that the cost of conducting transportation per ton per mile of the state carload business is five times greater than the interstate carload business?

A. The statement shows what the result would be on that assumption.

Q. And on all less than carload business, fifteen times as much per ton per mile as the interstate carload business?

A. Yes sir.

4376 Q. Are there any other differences between Exhibit 31 and Exhibit 30?

A. Only those which have been explained, I think.

Q. Upon what do you base the possibility of its costing fifteen times as much to do the one class of business as the other?

A. Well, there has been some testimony given that it costs a great many times as much. I think one man said he knew of one shipment where it cost twenty-six times as much.

Q. Is that as close as you can come to it; and that is the basis you take for that?

A. Yes sir. It is to cover any possible estimate that may be made.

Q. Is there anything else about Exhibit 31 that is not covered by what you have said about Exhibit 30,

A. I think not.

Q. Now, turn with me to Exhibit 35: what is that statement, and what is the purpose of it?

A. Exhibit 35 shows the freight expenses of the system for the year ending June 30, 1906, as shown by the Company's Analysis of Statements of Superintendents' Operation, dividing the different classes of the operating expenses, and showing the per cent which each of those different items bears to the total operating expenses.

Q. Let me see if I understand the first set of figures, under the head of "Amount and Percents," opposite the word "Item": it shows from Form 1941, Exhibit 27, the amounts and percentages of the services mentioned under the head of "items" as applied to

4377 the whole system, including the Iron Mountain and the Central Branch?

A. Form 1941 did not show the percentages. I made these extensions.

Q. The amounts aggregating twenty-one odd million dollars represent the total freight operating expenses upon the system, including the Iron Mountain and the Central Branch, as shown by Exhibit 27, Form 1941?

A. Yes sir.

Q. And then the percentages following those amounts are the percentages which you figure of the whole?

A. Yes sir.

Q. You follow that with a statement of some kind by which you apply those percentages applicable to the whole system, including the Iron Mountain and the Central Branch, to the expenses in Missouri, do you?

A. We apply the same division of the total operating expenses to the Missouri expenses.

Q. You first make a calculation in your account set of figures: your first column represents what? The percentage, as ascertained from Form 19*el*, Exhibit 27, as first set out?

A. Yes sir.

Q. The second column represents what?

A. It represents the division of the different operating expenses, as applied to state freight, after assuming that the station services, and the yard services, and the train services, and the engine services, cost twice as much as the interstate.

Q. That is to say, you take the percentages ascertained, as shown by the first figures, and then assuming that the yard, station,
4378 train and engine services cost twice as much in the state as in the interstate, and the rest of the items are the same, you have made the calculations accordingly?

A. Yes sir.

Q. That assumes, in the first place, that the ratio or percentage, of expense of the same for Missouri as upon the entire system, including the Iron Mountain and the Central Branch; that is the first assumption you make—Possibly I ought not to say you make any assumption, but that is the purpose of making the figure, to apply it to Missouri, for the purposes of subsequent calculations?

A. It shows what the expenses were on the system.

Q. And you use the multiple only upon the particular items I have mentioned?

A. Yes sir.

Q. Done in that way, the total operating expenses for the state would have applied to them what percentage, so as to give it to the state—that is to say, you have done practically Mr. Sturgis' example, upon this theory, haven't you?

A. Yes sir.

Q. What percentage would that give you?

A. That shows 115.11 per cent.

Q. Of state?

A. Yes sir.

Q. And 84.89 interstate. If on that basis you were going to divide the expenses for state and interstate, what per cent of the total expense would go to the state?

A. It would depend upon the ton miles of the state. The figures in this Exhibit 35 are intended to show the division of ex-
4379 penses, whatever the expenses might be.

Q. I understand that. Then what you mean to say is that the result of these figures, if they were applicable to this case—if, instead of having the system, those figures were applicable to Missouri, the excess cost of state business over interstate business, would be 35.57 per cent?

A. Yes sir.

Q. So the Sturgis example would be applied by using 1.3557 as the multiple?

A. Yes sir, in the case of the state freight, ton miles.

Q. That is, the one would be multiplied by that, and that would reduce it all to the ton mile basis?

A. You would take the ton miles of state freight, and the ton miles of interstate freight, and multiply the ton miles of state freight by 1.3557, and add that to the ton miles of interstate freight to get your common unit. Then you would take 1.3557 per cent of that common unit as the cost of the state business, and that common unit as the cost of the interstate business.

Q. I cannot follow you in such detail as that.

Assuming the percentages were 17 and 43, as shown from the figures which you gave me in Exhibit 30-*a*, you would multiply the 17 by your 1.3557, and your 83 by 1?

A. That 17 and 83 I think was tons, and not miles.

Q. What I want to do is, upon this figure, to apply Mr. Sturgis' example to the percentages we have in Exhibit 30-*a*, and see where it brings us.

The MASTER:

Q. Does that involve calculation?

A. Yes sir.

4380 Mr. HAGERMAN:

Q. Will you make that calculation during recess?

A. Yes sir.

Q. Do you understand what I want? Con't figure it out your way, because you get too involved, but apply it to the percentages 85 and 17, and do Mr. Sturgis' example with the figures you have there in Exhibit 35.

A. Very well.

Q. I want to turn back for a moment to Exhibit 33. I was at one time assuming that that exhibit, produced by Mr. Roth, was *at* intended to show something different. You called for the freight earnings from shipments north of Kansas City to Grand Avenue Station?

A. Yes sir.

Q. In your calculations, say in your Exhibit 19, how did you deal with the freight that went from Kansas City, Mo., north or northwest, out through Kansas City, Kansas?

A. I will have to look that up and let you know after luncheon.

Q. I assume, from what you have said, that you probably had calculated that as interchange earnings, a part of which goes to Missouri?

At this point, recess was taken until two o'clock, P. M.

4381 After recess on Wednesday, March 6th, 1907, the following proceedings were had:

The cross-examination of C. S. Ludlam, was suspended in order to give the defendant an opportunity to examine Mr. Frank Weightmann, whose duty required his presence elsewhere.

FRANK WEIGHTMAN, a witness of lawful age being duly produced, sworn and examined on the part of the defendant, testified as follows:

Direct examination.

By Mr. S. B. LADD:

Q. What is your name?
A. Frank Weightman.
Q. Where do you reside?
A. Monett, Missouri.
Q. How long have you lived there?
A. Since April, 1892.
Q. And where did you live before that?
A. Springfield, Missouri.
Q. Since what time?
A. From 1869 to 1892.
Q. Are you holding some official position now in the state?
A. I am one of the three Railroad and Warehouse Commissioners.
Q. When were you elected to that position?
A. In 1904.
4382 Q. In the fall?
A. Yes sir. November.
Q. You are one of the defendants, then, in this proceeding?
A. I am, yes sir.
Q. Have you had any railroad experience in Missouri, Mr. Weightman, and if you had, please tell the Court what it was and where?
A. I was employed by the Frisco Railroad in December, 1881, as freight brakeman, and served about two years as freight brakeman, and was promoted to freight train conductor, in which capacity I served on a freight train and mixed train, until somewhere in 1897 or 1898. From that time until November, 1904, I was passenger conductor exclusively.
Q. When did you begin to be a passenger conductor? I think you made a mistake.
A. 1887, I think.
Q. And you were a passenger conductor on that road till you were elected Railroad Commissioner?
A. Yes sir. I think my resignation reads September 30, 1904.
Q. Before your election?
A. Yes sir, just previous to the election.
Q. After your nomination, I suppose?
A. Yes sir.
Q. That makes up a total experience of how long?
A. Between 22 and 23 years.
Q. All in Missouri? When you speak of the Frisco Rail-
4383 road, you mean the St. Louis and San Francisco Railroad?
A. Yes sir. The St. Louis and San Francisco Railroad.
Q. You said your first employment was as freight brakeman for two years?
A. Yes sir.

A. On what part of the road did you run?

A. At that time, the cars ran out of Springfield, on what they called a chain gang. The first one in was the first one out. One trip we would make to Dickson, Mo., which was the division point east of Springfield. Another trip, we might get a trip to Pierce City, which was fifty miles west of Springfield. Another trip, we might go to Vinita, Indian Territory.

Mr. HAGERMAN:

Q. By "chain gang" you mean going out in any direction, without any special regulatiry?

A. Yes sir. That is, before they put us on regular divisions.

Mr. LADD:

Q. I believe you have said you had an experience of something like five years as freight conductor, conductor of a freight train and mixed train on that road?

A. Yes sir.

Q. Between what points—or was that a through train, or what you call a local train?

A. When I was freight conductor?

Q. Yes.

A. They did not have any regular local crews at that time.

Mr. HAGERMAN:

Q. That was during the time they had what you call the "chain gang?"

4384 A. Yes sir.

Mr. LADD:

Q. During those five years?

A. I don't remember whether they reorganized that previous to my going on a passenger train or not, but I think not.

Q. Between what points did you run as conductor of a freight train?

A. Between Springfield and Monett: then Pierce City.

Mr. HAGERMAN:

Q. That is west of Springfield?

A. Yes sir, fifty miles west of Springfield.

Mr. LADD:

Q. What are the division points on the Frisco Road, beginning with St. Louis and going west?

A. The first division west of St. Louis is Newburg.

Q. How far is that from St. Louis?

A. 119 miles.

Q. What is the next one west?

A. Springfield, Missouri.

Q. How far is that beyond Newburg?

A. 119 miles.

Q. And the next one?
A. Monett, Missouri.
Q. How far is that from Springfield?
A. 44 miles.
Q. When you were running as passenger conductor for fifteen or sixteen years, I believe it was, on what part of the line did you run?

Mr. HAGERMAN:

Q. Is Monett the junction point of two branches?
A. What they call the Paris, Texas, Division of the Frisco Road connects with the main line at Monett. It is a junction point.
4385 Q. It is the junction point where the road branches off in different directions?
A. Yes sir.

Mr. LADD:

Q. On what part of the line did you run when you were a passenger conductor?
A. I ran between Springfield, Mo., and Burton, Kansas, a distance of three hundred miles, from the time I was promoted until some time about 1891.

Mr. HAGERMAN:

Q. Where is Burton as respects the western part of Kansas: near what town?
A. Burton is about 35 miles west of Wichita and lays about 14 miles west of Newton.

Mr. LADD:

Q. Then where did you run?
A. They transferred me to the St. Louis and Springfield Division.
Q. You ran from St. Louis to Springfield and back?
A. Yes sir.
Q. Did you continue on that run until your resignation?
A. No sir, there were about 18 months I was transferred on a run between Monett and Sapulpa, Indian Territory, and from there I was transferred back to the St. Louis division again.
Q. And were there when you ceased employment with the company?
A. Yes sir.
Q. How long did you say you had lived at Monett?
A. I think the division moved there in 1892, and I have lived there ever since.
Q. You have lived there ever since?
4386 A. Yes sir, I moved with the division.

Mr. HAGERMAN:

Q. What do you mean by the division moving there?
A. The passenger division previously was out at Springfield, from Springfield to St. Louis.

Q. That was a divisional point?
A. Yes sir, a passenger division point.
Q. And then they changed the division point?
A. Yes sir.
Q. And Monett is how far from Springfield?
A. 44 miles west.

Mr. LADD:

Q. Has your experience on that road enabled you to observe in a general way how freight is handled on what you call through trains, and what might be called local or way trains?
A. I should judge so.
Q. How far is Monett from Springfield?
A. Monett, as I started to tell you a while ago, is a junction point. The Frisco Road that comes up from Paris, Texas, comes into the main line at Monett. At Monett the trains are made up for what is called the Kansas City Division which branches off from the main line. Then the Vinita line is now the Southwestern division. Then a line came up from Fort Worth, Texas, to Sapulpa and goes South from there.
Q. So practically there are three lines that branch off at Monett?
A. Yes sir. All those trains start out from there.
Q. On which division is Carthage?
A. Carthage and Joplin District are on the Kansas Di-
4387 vision.

Mr. LADD:

Q. Take the case of a Joplin carload shipment from St. Louis destined for a point between Newburg and Springfield, west of Newburg, one of the division points, and east of Springfield, the next division point: In what kind of a train would that carload of freight be put in St. Louis?
Mr. HAGERMAN: That is, to a point between Newburg and Springfield?
Mr. LADD: Yes.
Q. What kind of a train would that freight be put on to get to its destination?
A. It would go out of here on the first through or local train that could handle it after it was placed in the yard for shipment to Newburg. If it came down into the yards in the afternoon, it would be put into a through freight train going out that evening; that switch engine would switch it up near the engine. It would be set out at Newburg and the local train would take it with all other "short loads" out at Newburg the next morning.
Q. It would get to Newburg, if it was on time, that night sometime?
A. Yes sir.
Mr. HAGERMAN: I did not catch that. You used the expression "when it started from St. Louis, it would go through on a through or local train": You mean that from St. Louis?
A. Yes sir, to Newburg.

Q. And from there on a local train?

A. Yes sir, from Newburg on a local train. It would be what the railroads call "a short load," or local work for the division
4388 between Newburg and Springfield.

Mr. LADD:

Q. It would be put into a local train the next morning at Newburg and taken to its destination: that is right?

A. Yes sir. I will make myself clear on that. If it was perishable freight or stock, it would go right through on the through train.

Mr. HAGERMAN:

Q. They would not set it out at Newburg at all?

A. No sir, not if it were perishable freight or stock.

Mr. LADD:

Q. Take it generally: Freight for all places between Newburg and Springfield, would it be taken on from St. Louis to Newburg and there dropped, and then reloaded the next morning into a local train and distributed to the point between Newburg and Springfield that it was intended for? Is that the general way?

A. I do not quite understand you.

Q. Take freight for all points, say half a dozen points, and freight for each one of those half a dozen points: Would it be taken from St. Louis to Newburg, left there over night, and distributed by the local trains from there the next day?

A. Yes sor. To make myself clear, if there was a car going out of here for points between Newburg and Springfield, to be distributed from a car, that car would leave here tonight, if it was down in the yards, in a through train. It would be set out at Newburg, and the local train then would take it out of Newburg in the morning and do the distributing.

Q. You say one of the lines west of Monett runs off
4389 to Burton?

A. It runs on beyond Burton.

Q. Freight from St. Louis for points in the state of Kansas, on that Burton line—we will call it—is shipped from St. Louis for points on that Burton line west of Monett: how would that kind of freight be handled, on what train?

A. That would go as far as possible on a through freight train. That is, it would go to the first freight division east of where its destination was, in the through freight train, and then be set out and delivered by a local train.

Q. That is what we call, and I presume you understand it is, interstate freight, freight originating in one state and going into another state: You understand the difference between state freight and interstate freight, of course. Now, is there any difference in the handling of state and interstate freight in that respect?

A. None that I know of. You mean any distinction in putting it in a through train or a local train?

Q. Yes.

A. No sir.

Q. Both go to the nearest divisional point and there are put into the local train and distributed, speaking generally.

A. Yes sir.

Q. With the exception of perishable freight, as you have mentioned?

A. Yes sir.

Q. Would you be able to tell, or make any sort of an estimate, on the proportion of state freight and interstate freight car-
4390 ried on these way trains? Could you do anything in that line?

A. No sir.

Q. Mr. Weightman, can you refer to some concrete illustration of that method of handling freight?

A. On local trains?

Q. Yes.

A. I took some figures off from the yard-book at Monett recently.

Q. When was that?

A. Two or three weeks ago, or a week or ten days ago.

Q. Well?

Mr. HAGERMAN: That is objected to as having no bearing on the Missouri Pacific case. They are Frisco figures. There is no trouble about these gentlemen getting any figures from the Missouri Pacific Railway if they wanted them. It is just spending useless time taking figures from the Frisco Road.

The MASTER: Up to this time, we have permitted in the trial or investigation of any one of the three cases set apart for trial, tabulations, statements, and information derived by the witnesses from any one of the three. But we have not gone outside of the three cases up to this time. That would result in a compilation of figures and an examination of the St. Louis and San Francisco Railway almost to the same extent that it would one of the roads now under investigation; and if in that case, so in another, and we would be examining all of the eighteen roads, in order to try one.

I shall sustain that objection.

4391 Mr. LADD:

Q. In the handling of freight on those local trains, or any trains, is any distinction made between state and interstate freight?

A. None that I ever heard of.

Q. That is to say, the state freight, if possible, goes to a division point, is taken there on a through train, and then is taken on the local train to the point of destination: and the same as true of interstate freight: Is that right?

A. Yes sir. I think I can make that plain to you.

Q. Very well, do it in your own way.

A. The method of handling this work is, if a local train is going out of here for the next division, this morning, and there are only ten short loads of local cars in the yards, and there are only ten loads to be picked up on that division, and the engine could handle and do the work with thirty loads, there would be ten loads of

through freight, if it was in the yards, whether it was state or interstate freight, put into that local train.

Mr. HAGERMAN:

Q. Although it was through freight?

A. Yes sir, although it was going through. Whether it was state or interstate. Now they fill up the local train a good deal, where they have a heavy run on coke, or ties, or cordwood, or coal, or any heavy material, that there is not any rush to get over the road, they generally hold that for the local trains, and give the other freight a preference on the through trains.

Q. You have spoken of "short loads." I don't know that
4392 we all understand what you mean by short loads.

A. A short load is a load that sets out somewhere between the points on that division.

Mr. HAGERMAN:

Q. That is, you are going to leave the car somewhere between the two division points?

A. Yes sir. For instance, if you are going out of here, and have a car for Washington, and another for a station between here and Jefferson City, it would be put in the local train, and it would be set out and switching done by the local crew.

The MASTER:

Q. It means it runs to a point short of the end of the division towards which it is running?

A. Yes sir.

Mr. LADD: I do not think I can go any further with Mr. Weightman. His knowledge is general, of course.

4393 Cross-examination of C. S. LUDLAM, continued.

By Mr. HAGERMAN:

Q. (Last questions read to the witness.)

A. You asked me to determine whether the earnings from Grand Avenue, shown by the Company's Exhibit No. 33, were included in our Exhibit 19, for the month of October, and I find that they are. Those are freight earnings from shipments to points north of Kansas City from Grand Avenue, and visa versa.

Q. How about shipments from Kansas City, Missouri, state line, north? That is what I mean to ask.

A. I thought you meant the same as Exhibit 33.

Q. That may be my fault.

A. We took no account of that. We did not include any earnings on that business.

Q. In Exhibit 30-*a* I got the percentage of interstate as 83.14, and 10.88 for state?

A. Yes, sir.

Q. On the basis that it cost three times as much to do the state as the interstate, have you figured what percentage that would be?

A. If it costs three times as much to do the state as the interstate, on those figures the percentage of the expenses applicable to the state business would be 37.82 per cent, and applicable to the interstate business 63.18 per cent.

Q. Upon the basis of the tonnage as shown by Exhibit 30-*a*.

A. Upon the basis of the state costing three times as much it would be 55.17 per cent for the state, and 44.83 interstate.

4394 Q. Those figures are tabulated here in pencil as Exhibit 30-*b*?

A. Yes, sir.

Mr. HAGERMAN: I will offer in evidence this paper, as Complainant's Exhibit 30-*b*.

Complainant's Exhibit 30-*b* is in words and figures following, to-wit:

4395 Q. Turn to Exhibit 36: The first tabulation in figures in that amount was taken from Form 1940, Exhibit 27, and the percentage is figured by yourself?

A. Yes, sir.

Q. And those are practically the same figures that appear in the first part of Exhibit 35?

A. They are identically the same.

Q. Take for the basis of comparison Exhibit 14-*a*: I observe the statement Exhibit 14-*a* shows that 41 per cent of the tonnage carried on the six Missouri Pacific local trains running between Kansas City and St. Louis was state business, and 59 per cent was interstate business.

Now, your statement about six trains should be eight, shouldn't it Look at your Exhibit 34, which is the time-card number seven of the Eastern Division.

A. No, sir. This shows only one local train a day out of St. Louis.

Q. Take first the through trains; you make a calculation of six through trains each way, and there are eight, including the trains for the Joplin Division?

A. Exhibit 15 refers to the through trains.

Q. That is a fact, isn't it? You refer to Exhibit 15 here too?

A. Mr. Hagerman, the six were based on Mr. Doddridge's testimony that at the time he was General Manager on the Missouri Pacific there were six of those trains a day, and he thought there would be at least that many or more at the present time.

4396 Q. You have the time card before you: there are eight now, aren't there?

A. The time-card does not show the extra trains.

Q. The time-card shows eight through trains?

A. Four each way a day, but we are taking it only in on- direction. The train movement in Exhibit 36 covers a movement only one way.

Q. But there are eight each way, eight through trains?

Exhibit 36 is based on the idea that there are only six through trains, whereas, as shown by Exhibit 24, there are eight through trains each way?

A. I do not see it on Exhibit 24.
Q. Four?
A. Yes, sir. Four each way, regular trains.
Q. And you calculated six?
A. Yes, sir. On Mr. Doddridge's testimony; because many of these trains are run in two or three sections, and there are also extra trains.
Q. Mr. Doddridge said they had six each way, but Exhibit 24 shows they have only four each way?
A. According to Exhibit 24, they have four regular Red Ball trains out of St. Louis each way each day.
Q. How many did you estimate of local trains?
A. One.
Q. How many local trains are there actually on the Eastern Division, and the St. Louis Terminal Division?
A. I understand there is only one local train between St. Louis and Kansas City.
4397 Q. Through the Division. Three on the main line, aren't there?
A. The time-table shows only one out of St. Louis.
Mr. HAGERMAN: Mr. Roth, will you please point out one to him? If you cannot, I will have to put you on the stand.
Mr. LADD: Exhibit 36 refers to Exhibit 14-*a* and Exhibit 15.
Mr. HAGERMAN: I don't want an Exhibit here based on what took place in Mr. Doddridge's time, or upon any particular exhibit, if it is misleading as to what takes place now.
Q. Take this Exhibit 24, and your Exhibit 36, and see if you find those trains.
Exhibit 14-*a* and 15 were put in for a very different purpose, and you cannot seize upon them and make a mathematical statement to cover the whole case.
Take train No. 191, westbound, and see if you find that train; that is a local train?
A. (After examining time-card, Exhibit 24.) That is a branch train, and could not be construed to refer to Exhibit 14-*a* in any way.
Q. It is a local train?
A. Yes, sir. Train No. 191 is a local train between Kirkwood and Carondelet.
Q. Take train No. 193.
A. That is the Kirkwood local out of St. Louis.
Q. And train No. 195?
A. No. 195 is shown by Exhibit 24 to be the Creve Coeuer Freight.
4398 Q. Take train No. 1997.
A. This time-table I am looking at here is No. 13.
Q. Look at Time-table no. 7.
A. I will have to go back over those numbers I gave.
Q. Well, take train No. 191?
A. Time-table No. 7 does not show train No. 191.
Q. But time-table No. 13 does?
A. Yes, sir. Time-table No. 13, which is the St. Louis Terminal

Division of the St. Louis, Iron Mountain and Southern Railway, and the Missouri Pacific Railway, shows Train No. 191. It not being on the Missouri Pacific Time-table, I assumed it was an Iron Mountain train.

Q. I should assume it was a train on both roads. Look at No. 191, and see if it is not a Missouri Pacific train. I don't see how it gets from St. Louis out to Kirkwood, unless it is.

A. This shows the time of a train from Kirkwood to Broadway. This shows that train No. 191 starts at Kirkwood and runs to Broadway, St. Louis, O. H. & C. Branch.

Q. Have you something there to show whether it is a Missouri Pacific train or not?

A. I do not see anything on the heading to indicate what it is.

Q. There must be some way to show that. It says on the map "Carondelet Branch of the Missouri Pacific Railway."

A. It is a St. Louis, Iron Mountain & Southern train, too. Broadway is as far as this train appears to go.

Q. Broadway is the junction point?

4399 A. Well, there is nothing on the time-table, so far as I can see, to show that.

Q. Look at train No. 193. I can fence with you all afternoon, if necessary, to get the facts.

A. No. 193 is not on the Missouri Pacific time-table which is in evidence, but is shown on this terminal time-table No. 13 as running from 23rd street to Kirkwood.

Q. You cannot tell from that, you say, whether it is a Missouri Pacific train or not?

A. I imagine if it goes to Kirkwood it is a Missouri Pacific train. I do not think the St. Louis Iron Mountain goes to Kirkwood, but I am not sure of that.

Q. Look at the map on the back of the time table and satisfy yourself.

A. I could not satisfy myself from the map.

Q. What is it marked on the map? May be you can satisfy the Master.

A. Kirkwood is shown to be on the main line of the Missouri Pacific, by this map.

Q. Look at train No. 195, the Creve Coeuer branch.

A. It shows, "Creve Coeuer freight." The terminal time table shows Creve Coeuer.

Q. Is that on the Missouri Pacific?

A. The map on the back of the time table reads, "Creve Couere Lake Branch Missouri Pacific." That is a branch off the main line.

Q. Look at train No. 199?

4400 A. Page 8 of this time table 13 shows No. 199 as a local train of the Iron Mountain, so I understood Mr. Doddridge to say. (After examining time table.) That shows evidently a branch, which is 29/100 of a mile long.

Q. Is it a Missouri Pacific line?

A. So those gentlemen state (Indicating Messrs. Johnson and Roth).

Q. Doesn't it say so on the time table?

A. Mr. Doddridge says in one place it is Iron Mountain & southern and in another place it is Missouri Pacific.

Q. What does it say on the time-card?

A. On the time card it says, "St. Louis Terminal Division, Lesperance Street to Barracks."

Q. Where is the part that Mr. Doddridge pointed out showing it is a Missouri Pacific train: What does that say?

A. That shows it runs from Broadway to Oak Hill Junction, 29/100 of a mile.

Q. Does the map give you any indication of what train it is?

A. There is a line shown on this map which reads, "Oak Hill Branch Missouri Pacific Railway."

Q. It will take considerable time to go through it in this way, if you are inclined to question it: but here is a tabulation of Missouri Pacific local trains, fourteen eastbound and fifteen westbound, which I shall be very glad to have you take and check over, and tell me whether it is right or wrong. I do not want to take the time, if you are inclined to doubt if it is right: Will you undertake to check it and see if it is right?

4401 A. I will undertake to do it if it is necessary. I shall have to judge who that track belongs to. It may take days to work it out.

Q. Then I will go along and work it out with you, and it won't take days or hours.

Take trains 91 and 93, St. Louis to Jefferson City,—and I don't know of any other way of getting there except on the Missouri Pacific.

A. In this case I am simply locating it, and saying what the map shows. I would not be willing to say who owns that track.

Q. All I am asking you for is to say what the time-card shows.

A. Train No. 91 is shown by time-card No. 7 to be the local freight out of St. Louis to Pacific; and train No. 93 is shown to be the local train out of Pacific to Jefferson City.

Q. They call in this tabulation, "Joint Train 91-93?

A. Those are the first trains you have mentioned that relate to Exhibit 14-a.

Q. No. 95 is what? Jefferson City to Sedalia, isn't it?

A. No. 95 is shown by this time table to be a local train running from Jefferson City to Sedalia.

Q. What is No. 97?

A. No. 97 is shown to be the local train running from Sedalia to Kansas City.

Q. What is No. 99?

A. No. 99 is shown to be the local freight running from Cole junction to Myrick.

4402 Q. That is the river division, isn't it?

A. I think it is.

Q. What is No. 695?

A. It is shown to be the local train running from Myrick to Kansas City.

Q. What is No. 71?

A. No. 71 is shown to be the district freight, running from St. Louis to Jefferson City.

Q. And No. 617?

A. No. 617 is shown to be a mixed train running from Jefferson City to Bagnell.

Q. That is the Bagnell branch?

A. Yes, sir.

Q. No. 7 has two trains corresponding to it, eastbound No.'s 82 and 84, hasn't it?

A. Train No. 82 is shown to be what is designated as "Ordinary Freight," running from Jefferson City to St. Louis; and train No. 84 is shown to be an "Ordinary freight" running from Jefferson City to St. Louis.

Q. No. 627 is what?

A. 627 is shown to be a mixed train running from Sedalia to Warsaw.

Q. No. 637 and 639 are what?

A. No. 637 is shown to be a mixed train running from Tipton to Versailles, on the Versailles branch.

Q. No. 639 is what?

A. No. 639 is shown to be a mixed train running from Boonville to Versailles.

4403 Q. For each one of those trains there is a corresponding train running the other way, as shown by those time-cards?

A. I should assume so, but I would not state it.

Q. And this listing you gave did not include stock trains or coal cars?

A. I imagine a good many of those train*d* would carry coal.

Q. But I mean what is ordinarily called a stock train or a coal train: there is nothing to indicate it on the list?

A. Nothing there to indicate anything but ordinary, local trains.

Q. Take the schedule of through trains: westbound No. 51 is what.

A. Westbound No. 51 is designated in the time card as "Colorado Red Ball."

Q. That corresponding train eastbound is No. 54, isn't it?

A. I should judge not, from the time-table, because No. 54 is not shown as going beyond Jefferson City.

Q. Train No. 54 going the other way, then?

A. It runs from Rock Creek Junction to Jefferson City, and stops there.

Q. No. 55, westbound, runs from where?

A. No. 55 is designated in the time table as "Omaha Red Ball."

Q. What is the corresponding train coming the other way?

A. There is nothing to indicate.

4404 Q. What is No. 56 called?

A. No. 56 is called "The St. Louis Fresh Meat Train."

Q. Eastbound?

A. Yes, sir.

Q. What is No. 73, westbound?

A. It is shown as "Kansas City & St. Joe Red Ball."

Q. No. 8 eastbound is what?

A. It is shown as the "St. Louis Red Ball."
Q. No. 77 westbound, is what?
A. No. 77, westbound, is the "Joplin Division Red Ball."
Q. No. 64, eastbound, is what?
A. The "St. Louis Stock and Red Ball."
Q. That comprises all the through trains, doesn't it?
A. I should assume it did not.
Q. What other ones are there?
A. The extras, and the second and third sections of those trains.
Q. Is there anything shown on the time-card about them?
A. There never is.
Q. There is not, as a matter of fact?
A. They do not schedule second or third sections of trains on their time-tables.
Q. In this Exhibit 14-*a*, there appear to be six trains: if that right?
A. No, sir, there are eight trains, as I understand it, but we have counted that as one train from St. Louis to Kansas City, as it constituted really one train.
Q. How do you get your 204 tons for each train?
4405 A. Your witnesses got it as I understand, by dividing the total number of tons by eight trains.
Q. Our witnesses got it? I don't know what you mean by that?
A. This is a statement your side put in.
Q. That is to show that the average number of tons on each train was 204?
A. It shows that the average number of tons carried on the local trains between St. Louis and Kansas City was 204 tons.
Q. That the average number of tons on each train was 204 tons, is based on there being six trains?
A. No, sir. It is on the basis of eight trains: eight into 1630, 204 times.
Q. Let us pass to the next matter. This exhibit No. 36 used this language: "Exhibit 15 shows that the through trains carried an average of 470 tons. Six of those trains each way, each day, including Sunday, or 4,380 a year, at 470 tons each, would carry 1,658,600 tons:" Will you see if that calculation is right?
A. (After calculating.) No, sir, it is not.
Q. You have "1,658,600 tons," where it ought to be 2,058,600?
A. Yes, sir.
Q. That error runs clear through your entire figures in this Exhibit, doesn't it?
A. Yes, sir, apparently it does:
Q. That is to say, following that statement, a difference of
4406 about 400,000 tons, would change all your percentages in your entire statement?
A. Yes, sir, it would decrease the excess cost shown for the State.
Q. So that statement, as thus prepared, is not worth the paper it is written on, on account of that error?
A. I wouldn't say that. I would like to say that I would like to withdraw it and substitute a correct statement. Whereas, this state-

ment shows state freight 19.44 per cent more than interstate, that ratio of increased cost would be decreased. Therefore, this statement, with the error in it would be an indication that instead of being 19.44 more, it would be less than 19.44 more.

Q. You say on this basis the local trains carry 7.1 per cent of the total tonnage: What difference would it make as to those figures?

A. They would carry less.

Mr. LADD: If there is any clerical error, as there seems to be, I will ask leave to substitute a corrected statement for this one, as soon as we can prepare it.

Mr. HAGERMAN:

—. You proceed to say that the total tonnage, as shown by Exhibit 19, was 610,534, of which 7.1 per cent, the local train's proportion, would be 43,348 tons: what difference would that make? What would be the difference in the figures?

A. The ratio of 7.1 percent would be reduced. The local trains would carry less than 7.1 per cent of the total tonnage on that basis.

Q. How much less?

4407 A. Estimating it roughly, I should say one and one fourth per cent less, or something like that.

Q. The whole purpose and the basis upon which this statement Exhibit 36 is gotten up, is to apply your figures to Exhibits 14-*a* and 15?

A. No, sir, Exhibit 36 is gotten up to show on the basis of the information afforded by Exhibits 14-*a* and 15, how much more the cost of the state business would be per ton per mile than the cost of the interstate, on the assumption that certain of the elements entering into the total cost, cost more in the case of state than in the case of interstate. In other words, that if the local trains carry a larger proportion of the state business than they would carry if they carried the exact proportion which the total state business bore to the total business, how much the cost of doing the state business would be increased thereby.

Q. The result of your figures there is to show that, assuming Exhibit 15 was a fair representation of all the business in the state, you get certain results from it ?

A. Assuming that Exhibit 14-*a*, the local trains as shown by Exhibit 14-*a*, and the through trains as shown by Exhibit 15, which was all the information we had to work on, were representative of the business of the state——

Q. You had all the information you wanted to work on, and you have all the information now, and all the time you want, and all you want to work on: instead of taking those particular exhibits which we put in for a particular purpose, and covering only

4408 a special part of the road: Do you think that was fair, to take only those exhibits?

A. On the contrary, we have no information, and no record in the company's files to show the tonnage of the different trains. We had absolutely no information except the information contained

in those two exhibits which your men prepared without requesting us to accompany them on the trains, when the statements were prepared. If we had been invited to assist in their preparation, we should have said at that time we thought it better to take the tonnage of all the trains for a certain period, than to take it upon a portion of the business.

Q. Why would it be better to take it all?

A. Just as the whole is always better than a part.

Q. On page 2 of this exhibit 36 you apply this 75.26 per centage of the interstate business you get to the proportion of the division of the tonnage, as sohwn by Exhibit 19: About what difference would it make if you applied the percentage of tonnage as shown by Exhibit 30-*a*?

A. Exhibit 30-*a* treats of the ton miles.

Q. And tonnage, too?

A. No, sir, ton miles only.

Q. That is the exhibit I had you testify to, and includes tonnage and percentage?

A. Exhibit 30-*a* does not include tonnage and percentage; it includes ton miles only.

Q. Look at it.

A. (After examining exhibit.) Yes, pardon me, it does. I thought you meant Exhibit 30.

Q. Your 75.26, according to that, ought to be used?

A. What figure?

4409 Q. If you applied the percentage of 30-*a* instead of your proportion of tonnage upon Exhibit 19, what would it be?

A. That would make some difference, but not very much.

I should like to say in that connection, since you have raised the point, that Exhibit 30, which is based upon the earnings, as reported by the company in Exhibit 5-*a*, embraces in the State earnings all of the live stock shipments into and out of Kansas City, as state business. Whereas, Exhibit 19 treats all live stock, as we think properly, as interstate business, which accounts somewhat for the difference.

Q. That would account for something?

A. For a large part—or at least for a part of the difference.

Q. What I want to get at is the final result of what you are trying to show by this Exhibit 36?

A. I can state the principle of it.

Q. Let me get the principle of it.

A. The figures, you understand, will be subject to correction of the clerical error referred to.

The principle is, taking the best information we have on the question of the tonnage handled by the through trains, and the tonnage handled by the local trains, and assuming that the business done by the local trains costs three times as much per ton per mile as the business done by the through trains, to determine the excess cost of doing the state business over the interstate business.

Q. You applied that multiple of three to nothing except the element of station, yard, train and engine service, did you?

4410 A. We do not apply a multiple of three, Mr. Hagerman.

Q. I thought you said upon the basis of three times?

A. I said upon the basis of the business done on the local trains costing three times as much per ton per mile on the local trains as upon the through trains. But that should be limited to expense of the local trains. By that I mean the cost of engine service, and the cost of train service.

Q. That is to say, whatever multiple you use, you limit it to station, yard, train and engine service, and allow for no extra expense as to anything else?

A. Yes, sir, that is right.

Q. And then you assume that that is only applicable to the proportion of all the business that is represented as state business upon these local trains?

A. No, sir. I assume that in the case of the station service, and in the case of the yard service, the cost of the state business is twice as much per ton per mile as the cost of the same service for the interstate business.

But we assume further that that proportion of the local business which was handled on local trains, in excess of what should have been handled on local trains, costs three times as much for train service and for engine service.

Q. And by making these assumptions you get your result here?

A. Yes, sir.

Q. And that result is shown to be what?

A. As shown by this statement, that the cost of the state business is 19.44% greater than the cost of the interstate business per ton per mile.

4411 Q. Upon the assumption on which you have made your statement?

A. Yes, sir. And that figure, you will understand, will be changed by the correction of the clerical error referred to.

Q. To the extent of 400,000 tons?

A. Yes, sir.

Q. Exhibit 37 is figured out upon what basis?

A. Exhibit 37 shows what the results from the Company's state freight business, and the Company's interstate freight business, in the state of Missouri, would have been during the years 1904 and 1905, on the assumption shown by Exhibit 35, that the state business cost 35.57 per cent more per ton per mile than the interstate; and also the same results during the same years, on the assumption that the cost of doing the state business was 19.44 per cent more per ton per mile than the cost of the interstate.

Q. Let me see if I get that right: You assume first that the earnings, state and interstate, were as shown by Complainant's Exhibit 5-*a*?

A. Yes, sir.

Q. And then upon the assumptions stated and set forth in your Exhibit 35, as you have explained, of its costing 35.57 per cent more per ton per mile: and then upon the third assumption, upon

the basis of 19.44 per cent more per ton per mile on the state than on the interstate business, upon the theory developed by Exhibit 36?

A. Yes, sir. The correction of Exhibit 36 will necessitate the correction of the latter part of Exhibit 37.

4412 Q. Exhibit 38: Is that something in addition, or an independent statement?

A. That is an independent statement, relating, however to Exhibit 36, which assumes that the cost of all of the state business, and the cost of all of the interstate business, is identical per ton per mile, with the exception of that 4.67 per cent of the state business which is done on local trains, in excess of the proportion which should be handled by local trains. And that excess of 4.67 per cent costs three times as much per ton per mile as the other business costs.

Q. That is to say, you assume the earnings are as shown by complainant's Exhibit 5-*a*?

A. Yes, sir.

Q. And you assume that only 4.67 per cent of the state freight costs any more than any interstate did?

A. Yes, sir.

Q. Assuming that 4.67 per cent of the state freight really costs three times as much *per ton* per ton per mile as any other freight business, you get the result shown by exhibit 38?

A. Yes, sir.

Q. Let me understand a little more definitely what your 4.67 represents?

A. That figure will be corrected by the correction of Exhibit 36.

Q. What is it supposed to represent?

A. It is supposed to represent the proportion of the total

4413 state tonnage which was handled on the local or way trains excess of the proportion of the state tonnage which should have been handled on the local or way trains.

Q. That is to say, a certain portion of the state freight should have been handled on local or way trains, and that would not cost anything more than the interstate business?

A. That is based on the assumption that if the division of the tonnage between the local or way trains and the through trains was identical with the division of the total tonnage between state and interstate business, both would cost the same, both being handled in the proper proportions on each class of trains.

Based upon the result shown by Exhibit 14-*a* and by Exhibit 15, it develops that 4.67 per cent more of the total state business is handled on the local or way trains than should be handled thereon. And this exhibit assumes that that proportion costs three times as much.

Q. I understand about that exhibit, but what I am getting at is your 4.67 per cent. Do you assume, for the purposes of Exhibit 38, that everything costs the same except 4.67 per cent of the state freight?

A. Yes, sir.

Q. And that 4.67 per cent represents what you have figured out,

according to some kind of a theory, as to the excess of freight carried on local or way trains that should not have been carried thereon?

A. Yes, sir.

4414 Q. Where should it have been carried, according to your theory?

A. On the through trains; that difference of 4.67 per cent.

Q. Is it 4.67 per cent of all the freight, or 4.67 per cent of just the state freight?

A. 4.67 per cent of all the state freight.

Q. 4.67 of all the state freight?

A. Yes, sir.

Q. That is to say, in this calculation there is no extra cost except on 4.67 per cent of all the state freight?

A. Yes, sir.

Q. What is your judgment about the extra cost of doing that 4.67 per cent of all the state business over the inter-state business, independent of your theory as shown by this exhibit?

A. I should assume three times would be a fair estimate of the cost of doing business on local or way trains, as compared with the cost of doing business on the through trains.

Q. The 4.67 percent does not represent all the business you have figured out, according to any theory or exhibit, that was done upon the way trains?

A. No, sir.

Q. How much did you allow altogether for all the state business that was done upon local or way trains?

A. I have not figured that 4.67 percent is only the excess proportion of state business.

Q. The purpose of that 4.67 per cent, which is arrived at by the method shown by Exhibit 36, is merely to represent

4415 what, in your judgment, is the excess of state freight carried on way trains, which, in your judgment, ought to have been carried upon through trains, assuming that certain exhibits were fair representations of all the business?

A. Yes, sir, assuming that those exhibits——

The MASTER:

Q. Do I understand Mr. Ludlam, that you are of the opinion it woult cost three times as much per ton per mile to move freight on local as on through trains?

A. I think that is a liberal estimate, but I do not think it is far out of the way.

Q. You think that is about right?

A. Yes, sir, I think that is pretty nearly right; that would be my judgment.

Mr. HAGERMAN:

Q. Mr. Ludlam, you have figured here, in certain exhibits, 30, 31, 35, 36, 37 and 38, upon certain theories, certain results in earnings from the state business, and every one of them largely different in results: which one of them do you want to stand by

as being right, or as representing your honest judgment? Exhibit 30 is the first one that makes a final tabulation, isn't it? Can you answer that?

A. I will answer it in this way: After Exhibit 36 is corrected, in my judgment it would be somewhere between the results shown by Exhibits 35 and 36. Exhibit 35 shows that the state business costs 35 per cent more per ton per mile. And Exhibit 36, after it is corrected, will show that it costs somewhere in the neighborhood of 15 per cent more for state business than for interstate.

Q. What part of the expense, the operating expenses? or just train and engine service?

4416 A. The total operating expenses. My judgment is that the cost of the state business over the interstate, taking all of both classes of business into consideration, would be something less than 25 per cent.

Q. Now, I am going back through each one of these exhibits, and give you the ranges, and I will ask you to tell me whether they are right, in your judgment?

Exhibit 30, the lowest figure you give there as earnings from state business is $421,941.55; the next is $442,268.98 the next is $466,-831.31: As I understand you now, none of those in your judgment, is right?

A. In my judgment, the state earnings were larger than any one of those during the year 1905.

Q. So far as your judgment is concerned, the figures shown by Exhibit 30 are wrong, as representing the true situation?

A. Yes, sir. I think the state is overcharged in expenses in all those different showings on state business.

Q. Take Exhibit 31, One estimate there is $53,930.12; the next is $560,845.74; the next is $584,561.09: finally, you get the net earnings up to $612,087.84: is any one of those right, in your judgment?

A. No, sir. I think in all those cases the state expenses are overcharged. On the first column it shows net earnings as $612,000 on the state business, which would be nearer correct than any of the other figures on this exhibit, in my judgment.

Q. Take Exhibit 37: You have one statement there showing that the net earnings for 1904 were $714,463.94: another show-

4417 ing it was $799,815.52. And this one showing that in 1905 it was $751,851.49; and in 1905, in another, $838,880.22. Which, of these, if any, is right, in your honest judgment?

A. I should think somewhere between those figures would be correct.

Q. That is, somewhere between $714,463.94 and $838,880.22?

A. I should judge the $714,463.94 is the minimum of the net earnings resulting from the state business in 1904; and I estimate that the state business would not exceed $799,815.52 in 1904.

I should correspondingly place $751,871.49 as the minimum net earnings resulting from the state business done in 1906, and $939,880.22 as the maximum of the net earnings resulting from the state business done in 1905.

Q. What in your judgment about Exhibit 38, where you get $854,000 for 1904, and $895,000 for 1905?

A. I should think the net earnings would be something less than that, for the reason that I think there are certain items of expense that would be greater per ton per mile on the state business than on the interstate, in addition to the excess proportion of the state business handled on the local trains.

Q. Why should you prepare a statement showing results, if it is less than what your judgment thinks it ought to be, or more?

A. Because the Court's judgment might not be the same as mine, and I wanted to have all the figures before it.

4418 Q. Would your figures 4.67 per cent of all state freight apply if you had used Exhibit 15 instead of Exhibit 14-*a*.

A. The percentage of 4.67 is arrived at by using both Exhibits 14-*a* and 15. It would, of course, be impossible to determine the excess proportion of tonnage carried on local trains by using Exhibit 15 only, which shows the proportion of state tonnage, handled on through trains.

Q. And so you used them both?

A. Yes, sir, I used them both.

Q. In exhibit 36 how much did you figure as the total number of tons handled in Missouri as through business, for the year?

A. After the figures are corrected, it will be something like two million tons.

Q. I do not understand it, and Mr. Roth does not understand it. Please give me what figures you used in Exhibit 36 that you allow for through freight?

A. Something like two million tons.

Q. That is for through freight?

A. On the basis of those through rates, in the statement shown here.

Q. How much of that do you allow for state?

A. None of the two millions.

Q. Let us get at it another way: How much do you regard according to those figures, as the total tons carried for the year, state and interstate?

A. The total tons carried during the year, according to Exhibit 30-*a*, were 6,480,228.

4419 In your Exhibit 36, how much of that do you allow to the state business, in tonnage?

A. We do not attempt, by Exhibit 36, to apportion any tonnage to the through trains—any tonnage as divided between state and interstate, as applied to through trains. Exhibit 36 is merely trying to determine the proportion of the local tonnage carried on local trains, as compared with through trains.

Q. The six millions is the total, state and interstate?

A. Yes, sir.

Q. Apply your figures and tell me how much is state and interstate, and how much of the state tonnage went on through trains? Because, if your figures as given in Exhibits 30-*a* are right, and

your calculations are right in Exhibit 36, the thing ought to work out, and you ought to account for your six millions.

A. Exhibit 36 covers only some 2,200,000, roughly of tonnage; whereas the tonnage for the year is 6,000,000 so that would be one-third of the tonnage.

Q. But what would the two millions represent, what the through trains carried?

A. Yes, sir, 2,058,000.

Q. That would represent all the tonnage carried by the through trains?

A. No, sir, that would represent the tonnage which would be carried by six trains each way a day, between St. Louis and Kansas City, on the basis of the tonnage carried by Exhibit 15.

Q. How much of that would be state business, according to your figures?

4420 A. I haven't made any figures on that.

Q. What would it be according to what figures you have in mind? Upon that basis, Mr. Ludlam, your figures, subject to the correction of 7.1 percent of the total tonnage, all the tonnage that would be carried in Missouri in state business would be 7.1 percent of the six millions, wouldn't it?

A. Yes, sir. Subject to the correction. On the basis of the figures *w*hown in Exhibits 14 and 15.

Q. That correction would not make that 7.1 very much more than 8?

A. It would reduce it.

Q. Reduce it to say, six?

A. Somewhere in the neighborhood of six.

Q. That would make it, on that basis, 360,000 tons a year of state freight carried?

A. No, sir.

Q. What would it make?

A. That is six per cent. This figure, 7.1, would be corrected to represent the tonnage carried on the local trains, both state and interstate. There is no*t* separation between the two. It is the total tonnage carried by the local trains.

Q. That is to say, if that assumption would be right, the local trains would carry only 360,000 tons of the six millions tons carried in Missouri?

A. Yes, sir—you are using round figures?

Q. Yes, Take Exhibit 30-*a*, and tell me What percent of the tonnage is carried in the state business?

A. It is all carried in the state business, the whole 6,480,-

4421 228 tons; it is all state business. That is, it is state and interstate business carried in the state.

Q. What proportion would the state business be? The percentage is given?

A. 29.09 is the state percentage of the total tons shown by Exhibit 30-*a*.

Q. 30 percent of 6,000,000 would be the total tonnage of the

state business: would it be, in round figures, 899,000 according to Exhibit 30-a.

A. Something like that.

Q. And yet, upon the basis you have figured out Exhibit 36, the local trains would carry only about 360,000 tons?

A. Something like that.

Q. Do you think that could be a possibility? Now, independent of picking up some man's exhibit, as to particular tons, introduced for some particular purpose, do you think that could be a possibility upon the Missouri Pacific system?

A. If I had made an estimate, without having seen these figures, I should say that more than that proportion of the tonnage had been carried on the local trains. But I would not think now that my former opinion was as good as the figures shown by Exhibits 14 and 15. That is, to base an opinion upon.

Q. You said something the other day that the interest charged ought to be allowed for in some kind of way, but you would not call it operating expenses: what, in accounting, would you call it?

4422 A. You mean the interest on the bonded debt, I suppose?

Q. Yes, I understood you to say the other day that the statement of interest we had made was right, but I inferred from what Mr. Ladd said, and from what you said this morning, that that was an oversight, and was something you had not checked up, but assumed to be correct?

A. Yes, sir.

Q. I gave you a tabulated statement this morning to have checked up: has that been checked up and found to be correct?

A. I have gone over those figures, but without an examination of the mortgages, to determine specifically the property covered, we should think the charge as made by the company was correct.

Mr. HAGERMAN: I will offer in evidence this paper, as Complainant's Exhibit No. 39.

Complainant's Exhibit No. 39 is in words and figures following to-wit:

4423 Q. You said something about the Kansas City Terminal expenses: you thought $480,000 of the Kansas City Terminal expense ought to be charged outside of Missouri, leaving only $320,000, if $800,000 represents the total expense, to be charged to Missouri?

A. Yes sir.

Q. Upon what theory do you base that?

A. Upon three theories.

Q. What are they?

A. First, that of the total tonnage handled at Kansas City, one-third originated or terminated at Kansas City, and two thirds passed through.

Second, that the expense per ton of the tonnage that originated or terminated at Kansas City was three times as much as the expense per ton of the tonnage which passed through——

Q. How do you figure that out in your mind?

A. And, third, that of that proportion of the expense which was applicable to the business originating or terminating at Kansas City, one-half would apply to Missouri, and one-half to the lines west.

Q. How do you arrive at any calculation that that last item would be divided one-half for the western lines, and one-half for the eastern?

A. We think that probably if you had an exact record of that, it would be found that more of the business originating or terminating at Kansas City went west than came east. Kansas City is the great distributing point for the western country, out into
4424 Colorado, down into Texas, Oklahoma and Indian Territory——

Q. Everything that goes west to Colorado, comes down to Missouri and out to Colorado in that way?

A. —Therefore, it seems to us that Kansas City would have a little larger volume of tonnage coming into or going out of it to the West than to the East. As soon as it comes east it comes in to competition with St. Louis, Hannibal, and a great many eastern cities.

Q. What do you call "west"? Do you limit yourself to those things going west over the Omaha and Western branch?

A. All the business that goes west by the northern and southern lines.

Q. That goes some miles through Missouri before it gets into Kansas, going west?

A. Yes sir, twenty-seven miles. We thought possibly those twenty-seven miles, on the average, might present something like one-eighth to one-tenth of the total mileage of that freight which goes into Kansas City.

Q. Take the stuff from the west.

A. And that difference would be more than offset by that which goes west, as compared with that coming east.

Q. Take the stuff that goes west, as compared with the lines that go to western Kansas, or Texas, Oklahoma or Indian Territory; that would all be handled without going into Missouri at all, except the little portion which comes from the East, or that which originates at Kansas City, Missouri?

4425 A. And goes where?

Q. Down to the West, by running south of Kansas City, and then taking the Colorado, Arkansas or Indian Territory lines.

A. You mean if it would use the twenty-seven miles?

Q. Yes.

A. Yes.

Q. That is already Missouri business, taking that into consideration, and the way that yard is handled, would you say it was a fair thing to divide the freight expenses equally?

A. Yes sir, We thought it would be, and we gave that pretty careful consideration. We thought it would be fair to divide that portion of it applicable to the freight originating or terminating at Kansas City.

Q. Go back to your three divisions: your first one is what?

A. The first one is that of the total tonnage, the volume of busi-

ness, one-third of which originates or terminates at Kansas City, and the other two-thirds passes through.

Q. Where did you get those figures?

A. That is an estimate.

Q. Based on what?

A. Based on our examination of the way-bills and records for the month of October, 1905.

Q. That estimate would not hold good as to the stuff that crosses the state line, going up on that northern line?

A. You mean if it included that only?

Q. Yes.

A. No sir.

4426 Q. What I mean to say is this: that if it should be true that two-thirds of the stuff passes through, and one-third either originated or terminated at Kansas City, Missouri, there would not be one-tenth of it going through and going north, on the northern and central branch roads. Have you any figures to separate that from the stuff that goes west and south from Kansas City, Missouri?

A. No sir.

Q. You have not anything of that kind?

A. No sir.

Q. What is your second reason?

A. You mean the second basis of deduction.

Q. You said there were three reasons you had why you thought that $480,000 of the $800,000 ought to be charged to some other state than Missouri, of this Kansas City Terminal expense. Your first reason was that two-thirds of the stuff passed through Kansas City, and that only one-third originated or terminated at Kansas City, Missouri; what other reason have you?

A. I don't think I used the word "reasons." But the second point was that I was assuming that business which originated or terminated at Kansas City, Missouri, cost three times as much per ton as the business that passed through Kansas City.

Q. Why do you assume that business originating or terminating at Kansas City costs three times as much as that passing through?

A. We think ourselves that is rather too much to charge

4427 to the business originating or terminating at Kansas City. But you might say we did that to be liberal.

Q. Let us see how liberal you are. That is, the business which originates or terminates at Kansas City has all the fixed terminal situation to deal with, hasn't it, either the loading and getting of it out, or the getting of it in and unloading of it?

A. It has the loading and unloading, as compared with that which goes through.

Q. And that which goes through has same division expense, because that is a divisional point?

A. Yes sir.

Q. You think the result of the difference would be many times more, and to be liberal you allowed three?

A. I think the expense of the business originating and terminating

there would be more than the expense of the business passing through, on the average.

Q. You estimated that at three times, and said that was liberal—but you know we must always beware of those Greeks that bear gifts. Without being liberal, give us your best judgment.

A. My best judgment would be that it would not be three times.

Q. How much more or less?

A. Something less than three, and more than two.

Q. It is safe to assume that your honest judgment is that the fixed terminal expense at a terminating or originating point are at least twice those of a shipment going through?

4428 A. Yes sir, I should estimate it at least twice as much.

Q. That would work all down the line, when we are dealing with this thing of state and interstate shipments?

A. To a greater or less degree, it should.

Q. And your estimate will hold good as to that? If good at Kansas City it would be good at St. Louis and elsewhere?

A. It would gold good as to St. Louis. I should not want to say that it held good as to the smaller terminals, but as to St. Louis it would hold good.

Q. It would be the same for all large terminals?

A. There are none as large or as expensive as those at Kansas City and St. Louis.

Q. How expensive should you judge those terminals are?

A. $800,000.

Q. That represents an immense expenditure of money in the property itself?

A. Yes sir.

Q. Have you any idea of the value of the terminals at Kansas City and St. Louis?

A. No sir.

Q. You have no figure on that at all?

A. No sir.

Q. What is the third reason or point you had—Or, before I pass to that: Take a place like Sedalia, or Jefferson City, or some other smaller place, as to their terminals, what is the estimate you would make as to how many times more the originating or termi-

4429 nating expense would be than the passing through expense, if it is a divisional point, if it is two to three times as much as at Kansas City?

A. I should think on the average it would be something less than twice. Of course these are only estimates. I have not given any particular study to it.

Q. Wouldn't twice as much, on the whole, taking the big and little, be a fair average?

A. Yes sir, I should estimate, roughly, that it would be somewhere near that.

Q. Then the third point was what? Of all the business in these two cities, you would assign one-half of the originating and terminating expense to Kansas City, Kansas, and one-half to Kansas City, Missouri?

A. One-half to the lines east, and one-half to the lines west, using the lines east as meaning lines in Missouri.

Q. Have you any figures upon which you base that estimate?

A. No sir; that is an estimate only.

Q. Kansas City, Kansas, with one-fourth of the population of Kansas City, Missouri, ought to have the benefit of one-half, in your judgment, ought it?

A. I said the lines west; I did not say Kansas City, Kansas.

Q. That is the division: the state line divides it, and Kansas City, Kansas, is on one side, and Kansas City, Mo., on the other?

A. I imagine that a great many of the shipments made
4430 from Kansas City west originate in Missouri, and I base it upon the distribution of the business, and not the location of the terminals.

Q. You base it on the idea of where the business comes from and goes to?

A. I take that into consideration, yes sir.

The MASTER:

Q. Do you allow any share to Missouri for the first two-thirds, of that part of the business which merely goes through?

A. Yes sir. I should have said four bases. That proportion which is charged to the business which goes through, I distribute on the basis of the mileage being twenty-five per cent in Missouri, and seventy-five per cent for the lines west.

Q. Then you would give Missouri one-half of one-third, and divide the other two-thirds on the mileage basis?

A. It does not quite work out that way, because I figure the one-third as costing three times as much, so the one-third becomes three-fifths, really. So I would charge to Missouri one-half of three-fifths, and twenty-five per cent of two-fifths.

Q. One-half of one-third, multiplied by three?

A. Yes sir.

Q. The other two-thirds being divided on a mileage basis?

A. Yes sir.

Mr. HAGERMAN:

Q. Let us carry that a little further: they have some termi-
4431 nals out at Pueblo: did you give Missouri any benefit of the terminal charge out there?

A. No sir.

Q. They have terminals at Coffeyville, Kansas, and in the Indian Territory, and in Arkansas: Does Missouri get any benefit of those?

A. No sir, but I think, to a small extent, those offset the proportion of the terminal expense of St. Louis, which should be charged outside of Missouri; consequently, we made no point on that. You see, the biggest terminal, and the most expensive—far more expensive than Kansas City—is at St. Louis. We did not make any distribution of the St. Louis terminal expenses outside of the state, and we think that a good deal more than offsets the terminal ex-

penses outside of Missouri, that would apply to Missouri, if an absolute distribution of the terminal expenses should be made.

Q. Why should you distribute any of this terminal expense, especially that of the Kansas City State Line yard, wholly within the limits of the state, outside of the State? What reasons would there be for it?

A. The same reason as for apportioning part of the Pueblo terminals to Missouri.

Q. That is not done?

A. The freight which originates in St. Louis, and all the terminal expenses of the St. Louis Station, are charged to Missouri. A large amount of the freight which originates in Missouri goes west and outside of the state.

Q. I don't know if you are going to revolutionize this mat-
4432 ter of terminal expenses, but I wanted to get your ideas about it. Your idea is that even all of the St. Louis terminal expenses, which in the first instance are wholly in Missouri, should not be charged to Missouri?

A. Technically, not; but my judgment is that that expense will be somewhat offset by the terminal expenses incurred outside of Missouri, that would appertain to the business moving into Missouri. So those terminals somewhat take care of themselves.

But Kansas City, being situated right on the border, is an entirely different proposition, and should be distributed on the basis of the tonnage.

Q. And get no benefit from any terminal at all outside of the state?

A. Missouri, you mean, got no benefit?

A. Yes.

A. No sir, because St. Louis would more than take care of that.

Q. In forming your judgment, and estimating on this subject, you do take into consideration that part of the terminal expenses of St. Louis should be apportioned to other states?

A. Yes sir. We have considered that, and arrived at the conclusion that while the outside terminals would not offset those expenses, they would approximately do so.

Q. Don't you suppose merry Cain would be raised if we had a rate case out in Colorado, or Kansas, and attempted to charge to those states the expenses of the terminals at St. Louis? And did you ever hear of a case of that kind, where a terminal wholly within a state was charged as part of the expenses of another state?

4433 A. I will answer your question by saying that if you had a rate case in Colorado, and all your expenses were distributed on as accurate a basis as possible, and that would include the distribution of those items I speak of, I believe you could sustain your distribution.

Q. What you mean to say, and possibly it would be all right upon that theory, and that is your real idea about this thing, after studying the entire situation, is that this question of terminals ought not to be treated as a local proposition, but should, in reality, be spread

over the entire system, each state being charged with its exact proportion?

A. Yes sir.

Q. But that is not the way it is done in railroading?

A. No sir, and Missouri gets the worst of it.

Q. The state itself, having the big cities, gets the big expense?

A. Yes sir.

Q. But if you could revolutionize it, so as to have it work equally in each state, you would take that terminal expense and distribute it in some kind of a fair way over the whole system?

A. Yes sir. I think what I should do would be exactly what the Burlington Railroad has done at Chicago; that is, as I understand it, it deducts the Chicago terminal expenses from the revenue; if they get twenty dollars for a car of freight coming into Chicago, they set aside two dollars, and their revenue is eighteen dollars; the terminal expenses are paid out of the two dollars set aside on each car.

4434 Q. That operates, so far as practical results are concerned, in what you say would be the ideal way?

A. Well, I did not quite say "ideal," but I say more accurately than the present idea.

Q. What I was trying to get at, because I knew you had some definite notion about it, was that your opinion is that, in a general way, every state ought to bear its proportionate burden, in some kind of a way, of the terminal expenses in the large cities.

A. Yes, sir.

Q. And those ought not to be charged entirely to the particular state in which the terminals are located?

A. That is my idea.

Q. And that is the real opinion at the bottom of your opinion about this division of the Kansas City terminal expenses, isn't it?

A. Yes, sir.

Dedirect examination.

By Mr. S. B. LADD:

Q. Mr. Ludlam, on your cross-examination you were asked this question: "The next item seems to be "Total Expenses of Local Freight Traffic." (Mr. Hagerman was there referring to Exhibit 5-*a*, which he had before him.) "That, as I understand, adds to the expense an extra cost of fifty percent of doing the local over the interstate business?" And you answered in this way: "No, sir, it adds nearly three hundred per cent. It adds fifty percent in proportion to revenue."

4435 Now just what percent does it add?

Mr. HAGERMAN: Is that two hundred, or three hundred? I thought he said the ton mile was two to one.

Mr. LADD: And I will supplement that question by this: The revenue on the state business, according to your Exhibit 19, per ton mile, is a little more than double that of the interstate.

Mr. HAGERMAN: Just about thirty percent, isn't it?

A. It would add something over two hundred per cent; but I was

trying to find the exact figures here. (After calculating) It would add 219 per cent.

Mr. HAGERMAN:

Q. Is that a ton mile or a revenue basis?

A. That is a revenue per ton per mile basis.

Mr. LADD:

Q. Upon what basis of difference in revenue per ton mile do you arrive at that 219 per cent?

A. Upon the earnings per ton per mile, shown by Column 8 of Exhibit 19, which are 1.6619 cents in the case of the state freight, and .7796 in the case of the interstate freight.

The MASTER:

Q. Let me see if I understand you: On page 1, of Exhibit 5-*a*, there is a note: Do I understand that the addition of this fifty per cent added to the local earnings would be equivalent to adding two hundred per cent to the expense based upon a per mile estimate?

A. Yes, sir. I might explain or simplify that by saying that Column 8 of Exhibit 19 shows that the earnings from state freight amounted to 1.6619 cents per ton per mile. Now, if you add
4436 fifty per cent to that, or .83095 cents, you get the earnings per ton from state business of 2.49285 cents per ton per mile. Now, column 8 of Exhibit 19 shows that the earnings per ton per mile from interstate freight were .7796 cents, 2.49285 cents, which are the earnings per ton per mile from state freight, after being increased fifty per cent, are 319 per cent of .7796 cents per ton per mile, which are the earnings from interstate. If the ratio of the state earnings is 319 per cent to the interstate earnings, then there would be an increase of 219 per cent.

Mr. HAGERMAN: Where you confuse me is by getting that into earnings. Can't you do that on the per ton per mile?

A. Exhibit 5-*a* is based on revenue, and that is why I do it by revenue.

The MASTER:

Q. The effect is that the adding of fifty per cent to the local earnings, on account of the increased expense of state business, is just about the same as multiplying by two, based upon the per ton per mile theory?

A. No, sir. It is equivalent to multiplying by three, which is an increase of two, or 219 per cent to be exact.

Mr. HAGERMAN: As I understand it, it works out, that our difference works on your figures, assuming your Exhibit 19 to be right, that when I use that figure upon revenue it is about two to one, when you figure on a ton mile basis, on any figure we take.

A. The revenue per ton per mile of the state business being more than double the revenue per ton per mile realized from the interstate business, it more than doubles the increase.

4437 Mr. LADD: Suppose the revenue per ton per mile on the state business were just double that on the interstate business,

how much more would the cost be on this fifty per cent basis, how many times more?

A. Three times as much.

Q. What per cent more, two hundred per cent more?

A. Yes, sir. Two hundred per cent more.

Q. Because the revenue per ton per mile is a little more than double on the state what it is on the interstate, it makes 219 per cent instead of 200 per cent; is that it?

A. Yes, sir. That is right.

Q. In your cross-examination, while you were being examined, I think, upon Exhibit 19, you were asked this question "Applying it to the ton mile basis, assuming you were right in your Exhibit 19, it would result that on the revenue basis fifty per cent of the expenses should be charged to state, whereas, upon the per ton mile basis thirty-two per cent should be charged?" And you answered: "Yes. That is, at the ratio of three to one. That is, the state costing three times as much as the interstate."

Then you were asked this question: "Now, at one and one-half times, what would it work out in these examples? Seventy-five and twenty-five I think we have been using for the others, in round numbers." And you answered: "In the case of per ton per mile it should be nineteen and a fraction per cent, and in the case of revenue and the number of tons it would be thirty-three and one-third per
4438 cent." I think you figured that out just before you answered the question.

I would like to have you explain the processes by which you arrived at the nineteen and a fraction, and the 33⅓ per cent. Do you recognize now what that refers to?

A. Yes, sir.

Q. You state your conclusions here, but I think very few would know how you reached them.

A. In Exhibit 19, taking the tons first, the interstate business represents 75.26 per cent.

Q. As shown by column 2?

A. Yes, sir. And the state 24.74 per cent.

Mr. HAGERMAN:

Q. That is tons?

A. Yes, sir, tons. In the example which was figured out in the record, Mr. Hagerman told me to use 25% and 75%, as round numbers.

Q. For quick calculation?

A. Yes, sir For quick calculation.

If you figure that 25% of the business costs 3 times as much as 75%, you would multiply your 25 by 3, which would give you 75; and you would add to that the 75%, which represents the interstate business, so on that basis both your state business and your interstate business would be 75/150 or fifty per cent.

Q. The adding of those two makes 150?

A. Yes, sir; and therefore it would become 75/150, or fifty per cent of the whole.

In the revenue per ton, as represented by Column 4 of Exhibit 19, the actual figures are 74.27 percent of the interstate, and
4439 25.73 per cent for the state.

Mr. HAGERMAN:

Q. Is that revenue?

A. Yes, sir. In that case we also day in round figures 25 per cent for the state, and 75 per cent for the interstate.

Q. And that also was simply for the purpose of quick calculation?

A. Yes, sir. And the 25 per cent multipled by three——

Mr. LADD:

Q. Wait a moment. What do you say Column 4 represents?

A. That represents the percentage of the total revenue.

Q. You said revenue per ton: you didn't mean that, did you?

A. No, sir. I meant percentage of the revenue. Taking those figures at 25 per cent for the state and 75 per cent for the interstate, and multiplying the state by three, you get 75/150 as applicable to the state, and 75/150 as applicable to the interstate, or fifty per cent and 50% of the total.

Q. Look at this part of the record: that is what I want you to explain.

A. (After examining record.) It was figured on the basis of one and one-half times in the case of tons; for the revenue, you would take 25%, which represents the state's proportion in round numbers, and multiply that by one and a half, which would give you 37½. To that you would add the 75, which represents the interstate, in round numbers, and that would give you 112, ½% and 37½% of 112½% equals 33⅓ per cent. That, on the basis of adding
4440 50% to your number of tons, or to your revenue, would be the proportion of the state business.

Mr. HAGERMAN:

Q. That is, that would represent 33⅓ per cent of all expenses?

A. The percentage of ton miles is shown by Column 7, in Exhibit 19, to be in the case of interstate 86.02, and in the case of the state, 13.98; we used round figures in that instance, and called the interstate 86 and the state 14.

Figuring that the state would cost one and one-half times as much as the interstate, we multiplied 14 by one and a half, which gave us 21, to which we added the 86. The total of the 21 and the 86 is 107. We divided that into the 21, and it gives 19 and a fraction per cent, which would be the proportion of the expenses which would be applicable to the state business, on the basis of one and a half times the ton mile basis.

Q. That is the process by which you reached the 19 and a fraction per cent and the 33⅓ per cent mentioned in your cross examination?

A. Yes, sir.

Mr. HAGERMAN: Just before he explained that, he broke off in the middle of a sentence as to the per cents. I wish he would give it, as

to what it would be on the 86 and 14, by using the multiple of three, so as to have both theories here together.

A. In the case Mr. Hagerman just mentioned, you would take 14, which represents in round figures—Or let me put it in
4441 this way: On the basis of 14 state ton miles costing three times as much as 86 interstate ton miles, there would be 32 and a fraction per cent applicable to the state business.

Mr. LADD:

Q. In your cross-examination you made a statement about deductions from the expense: what was that?

A. I stated that there were certain minor items of expense which were deducted from the earnings by the Company, but which had not been deducted from the earnings shown by Exhibit 19 for the month of October; and that those charges included switching charges and transfer charges, and small items of that nature. I should have said, bridge tolls and transfer charges and small items of that nature.

Q. You should not have used the words, "switching charges."

A. No, sir, there are no switching charges.

Q. You meant bridge tolls?

A. Yes, sir.

Q. And claims?

A. Bridge tolls, claims, and some small items.

Q. You did not mean to include switching?

A. No, sir.

By Mr. HAGERMAN:

Q. This should read: "Bridge Tolls, transfer charges, and small items of that nature?"

A. Yes, sir; claims and small items of that nature.

Mr. LADD:

Q. You were asked about an Exhibit which was introduced on cross-examination, showing the population per mile of railroad in Missouri and several other states: Now that refers to the density of population: What has the density of population to do with traffic of any kind? How is it affected?

4442 A. It is generally considered by railroad men that the greater the density the less the cost.

Q. How is it about the volume of business?

A. That is what the density represents. The greater the volume the less the cost.

Q. The denser the population, the greater the volume of business: is that it?

A. Yes, sir. The greater the local business, for instance, the more business they do locally, when the population is greater per mile of road, than is more sparsely settled country.

Mr. HAGERMAN:

Q. Have you Colorado in Exhibit 22?

A. No, sir.

Q. Have you the population for Colorado per mile of road at hand?

A. No, sir.

Mr. LADD:

Q. In your cross-examination you said the longer the distance hauled, the less ton per mile for the originating terminal expense: and then you were asked this question: "But when you come to tabulate in your memorandum, you allow only 105 miles, and yet the per ton per mile basis is figured out on the long haul"; and later on the question was asked in this way; "And yet the expenses that might be figured out per ton per mile are not on the basis that 105 miles was the entire length of the haul, but it might have been 205 miles, or 305 miles."

It was suggested at all events, that perhaps that was not fair. Now why is that — fair?

4443 A. Because in the figures submitted by the company, all of the terminal expenses incurred in the state of Missouri, and we think some of those incurred in the state of Kansas, are included in the expenses charged to Missouri. That is, all of the terminal expenses which occurred in Missouri, or which could in any way be directly applicable to the haul in Missouri, are charged to the expenses. Consequently, those expenses are distributed over the haul which occurred in Missouri.

Mr. HAGERMAN:

Q. Wouldn't they be distributed if the freight went beyond Missouri?

Mr. LADD:

Q. For instance, all of the St. Louis terminal expense is charged to Missouri: Is that right?

A. Yes, sir.

Q. And that includes the terminal expense connected with state freight, interstate freight, and some interstate freight that may go five hundred miles out of the state: is that true?

A. Yes, sir, it includes all of the expenses of the St. Louis terminal, without regard to the destination or the origin of the freight.

Q. And that is the reason why, instead of charging the terminal expenses which, measured by miles of the entire haul, might be much less, you charge it on the basis of 105 miles haul, which is the average haul in Missouri.

A. Yes, sir.

Q. Because Missouri has to stand all of the expense any how?

4444 A. Missouri does stand all of the expense in every Exhibit put in. Missouri stands every dollar of terminal expense for every pound of freight handled or hauled in Missouri, and in the case of interstate freight the haul in Missouri is 105 miles, and in the case of state freight it is 52 miles, on the average.

Q. You were asked in your cross-examination whether in reduc-

ing to a ton mile basis you took into consideration the amount of waste space in the car, and you answered, substantially, that you did not: Was that taken into consideration in the case of every kind of freight, state or interstate?

A. No, sir. It was not.

Q. Both were treated alike.

A. Both were treated exactly alike.

At this point, the further hearing of testimony herein is adjourned until tomorrow morning, Thursday, March 7, 1907, at ten o'clock, a. m.

4445 ST. LOUIS, *March* 7, 1907.

Met, pursuant to adjournment as above, on Thursday, March 7, 1907, at ten o'clock a. m., in the Federal Building, St. Louis, Missouri.

Present: Hon. F. L. Scofield, Special Master.

Mr. Frank Hagerman appeared in behalf of the Complainant.

Messrs. S. B. Ladd and John Kennish appeared in behalf of the Defendants.

The following proceedings were had.

Redirect examination of C. S. LUDLAM, Continued, as follows:

By Mr. S. B. LADD:

Q. Will you look at Exhibit 19, if you please, and then take Exhibit 20: According to Exhibit 19, what was the total carload of freight of all kinds for October, 1905?

A. You mean the ton miles.

Q. Yes, ton miles.

A. 52,689,178.

Q. Look at Exhibit 20, and state what the total ton miles were of freight on way-bills issued on the first, 2nd, and 3rd, days of October, 1905?

A. 3,670,235 ton miles.

Q. What was the average per day in ton miles, according to your Exhibit 19; that is the whole month of October?

A. Including Sundays or excluding them?

Q. Including Sundays, for the thirty-one days in October?

4446 A. About 1,700,000 ton miles per day.

Q. That is an average of about 1,700,000 ton miles a day, is it?

A. Yes, sir.

Q. What would that average be for three days?

A. 5,100,000 ton miles.

Q. What does Exhibit 20 show were the ton miles for those three days in October covered by the Exhibit?

A. 3,670,235 ton miles.

Q. What is the difference between 5,100,000 and 3,670,000?

A. About 1,430,000 ton miles.

The MASTER:

Q. What was the average ton miles per day according to Exhibit 20?

A. 1,223,412.

Mr. LADD:

Q. That is to say, if the first three days in October had maintained the average of October, the first three days would have shown 1,430,000 ton miles, in round numbers, more than it actually was?

A. Yes, sir.

Q. This pertains exclusively to carload lots?

A. No, sir.

Q. Do you know now what day of the week the 1st of October was?

A. Yes, sir, it was Sunday.

Q. There were five Sundays then, in that month?

A. There would be five Sundays in the full month of October, yes.

4447 Q. How might that difference be accounted for in your opinion?

A. Sunday is a light day. There is very little billing of freight done on Sundays. Only the billing of through freight as a general proposition, freight received from connections.

Q. What else, if anything.

A. Well, I think that accounts for the difference, that Sunday.

Q. What is the showing for the business for the previous months?

A. There is always a fluctuation in the freight business, and that is illustrated by the figures for the year of the earnings of the Missouri Pacific Railway Company in the state of Missouri, which is shown by Exhibit 5, divided by the monthly periods; for instance, the earnings for the month of August, 1905, were $535,000.

Q. Where did you get those figures?

A. We got those from the Company's records of the com-ilation of the earnings in the state of Missouri for the year 1905, which were used in this case.

Q. Have you the company's records for freight earnings in Missouri for each month of 1905?

A. Yes, sir.

Q. What does the aggregate of the twelve months, as shown by the Company's records, amount to?

A. $5,410,246.59.

Q. Is that the amount shown on Exhibit 5?

4448 A. Yes, sir. That is the amount shown on page 3 of Exhibit 5-*a*.

Q. You have the figures there before you, from the Company's records, for the freight earnings in each month of that year?

A. Yes, sir. From the Company's records compiled in this case of the earnings in the state of Missouri.

Mr. HAGERMAN:

Q. Is that on the basis of Exhibit 5 or 5-*a*?

A. The earnings, as I recall it, were the same in both Exhibit 5 and Exhibit 5-*a;* the only change was in the expenses.

Q. This paper you have now really itemizes the earnings as shown in Exhibits 5 and 5-*a* into months?

A. Yes, sir. It shows them by months.

Mr. LADD:

Q. And the footings for those figures for the 12 separate months aggregate the amount shown as the total earnings in Exhibit 5-*a:* is that right?

A. Yes, sir.

Mr. LADD: I will offer in evidence this paper as Defendant's Exhibit 5-*a*.

Exhibit 5-*a* is in words and figures following to wit:

4449 Q. According to that Exhibit 5-*c*, what were the earnings for the month of July, 1905?

A. $499,183.81.

Q. That is for both state and interstate?

A. Yes, sir.

Mr. HAGERMAN:

Q. What are the subdivisions of that amount?

A. State $158,820.98; interstate, $340,362.83.

Mr. LADD:

Q. What are the earnings for the month of August, 1905?

A. $535,396.32.

Q. And what were they for September?

A. $472,367.36.

Q. What were they for October, 1905?

A. $497,993.76.

Mr. HAGERMAN:

Q. You are giving those for 1905?

A. Yes, sir. Those are earnings for those months during the year 1905.

Mr. LADD:

Q. Look at your Exhibit 19, for the month of October, and see what you ascertained the earnings for the month of October to be?

A. The total earnings for the month of October, 1905, as shown by Exhibit 19, in column No. 3, line 7, are $508,542.46. That is the difference, or an excess over the Company's figures for the month of October, of about $10,500, whoch would be accounted for by those items of bridge tolls, claims, transfer charges, etc. which were not deducted from our figures but were deducted from the company's Figures.

4450 Q. Your figures as shown by Exhibit 19, for the month of October, are very close to the Company's figures which they kept?

A. Yes, sir. We should consider them in accord with the Company's figures.

Q. I wish you would divide the October ton miles, as shown by Exhibit 19, that is to say, 52,689,178 by 26, which is the number of secular days in October, and see what it amounts to?

A. That would give you an average of 2,026,507 ton miles per day.

Q. Divide your 3,670,235 ton miles, as shown by Exhibit 20, for those three days, by the two secular days, Monday and Tuesday, and what does that amount to?

A. 1,835,117 ton miles per day.

Q. What is the difference in percentage?

A. About ten per cent.

Q. Ten per cent in favor of the month's showing over the *the* day's showing?

A. Yes, sir.

Q. It appears from Exhibit 5-*a* that the business of September was considerably less than the business of August: how much less?

A. About 12 percent.

Q. How many dollars in round numbers?

A. $63,000.

Q. The business of October was how much more than the business of September?

A. $25,000 more.

4451 Q. September, then, fell off from August, and October rose from September?

A. Yes, sir.

Q. You said something about the fluctuations might account for the difference between the three days and the whole month: what did you mean by that?

A. I meant the difference between the first three days of October and the month of October is less than the difference between the ratio of earnings during the month of August and the month of September. For instance, the business fluctuates from day to day; one day might be a great deal larger than another day. Sometimes business would be curtailed for a day or two, on account of the congestion of freight, or a shortage of cars, and it might be affected by a great many conditions. Freight never moves uniformly, as you must take a more or less extended period to get a fair average.

Q. Is the difference between the average movement for the first three days, and the average movement for the thirty-one days of the month, to your mind, a surprising incident?

A. No, sir, not at all. I should consider it not out of the way, in any sense.

Mr. HAGERMAN:

Q. What does it range, from the lowest to the highest figure, in any month?

A. The lowest earnings during the year 1905 in any one month appears to have been in February, when they were $340,623.36.

Mr. LADD:

Q. You are taking those figures from Exhibit 5-e?
A. Yes, sir.

4452 Mr. HAGERMAN:

Q. What is the highest?
A. In the month of August, when they were $535,396.32 a difference of $195,000, or 60%.
Q. Is August the highest month in the year?
A. August appears to be the highest month in the year.
Q. And February is the lowest?
A. Yes, sir.

Mr. LADD:

Q. I suppose some part of the difference would be accounted for by the difference in the length of the months?
A. Yes, sir.
Mr. HAGERMAN: "What is it for January?
A. $393,187.67.
Q. Have you what percent October is for the entire year?
A. I can give it to you (after calculating). 9.2 per cent.

Mr. LADD:

Q. There seems to be a great falling off in the earnings, that is quite a large falling off, from August to September; those figures show that, don't they?
A. Yes, sir.
Q. And then, a recovery in October?
A. From September, to October, yes.
Q. I will ask you if it would not be expected that this falling off which was experienced in September might naturally extend, to a certain extent at least, to the first part of October, so that the business of the first part of October would not be as heavy as in the subsequent parts of the month?
A. That would seem to be a reasonable conclusion to me.
Q. I do not know whether it is or not?
4453 A. September being low, and October high, the probabilities are that the increase would be gradual, and that it would not jump right up during the first days of October.
Q. I wish you would look at page 48 of the 26th annual report of the President of the Missouri Pacific Railway Company to the Directors and stockholders, and particularly at the item "Number of tons per loaded car mile, average?"
A. I have it.
Q. In your direct examination you referred to that as 17.4 tons, didn't you?
A. Yes, sir.
Q. That is revenue freight?
A. Yes, sir.

Q. What does the same report show, in the same connection, as to the number of tons per loaded car mile, including all freight, Company and revenue freight?

A. 19.1 tons.

Q. I want to ask you what is meant by "Per loaded car mile?"

A. It means the number of miles moved by cars that were loaded.

Q. How do you reach the average number of tons per loaded car mile: just state the process.

A. By dividing the mileage made by the loaded cars into the ton miles, which result would be the same as the number of cars divided into the number of tons. That is to say, if you had one car with ten tons of freight in it, to get the average per car you would divide the one into the ten, which would give you the resultant figure
4454 of ten, ten being the number of tons in the car. If that car moved ten miles, it would become ten miles of loaded car movement, and the number of ton miles would become one hundred ton miles. And ten, the number of loaded car miles, divided into one hundred ton miles, would give you the resultant figure of ten, which is the same as you had in the first instance.

In other words, when you multiply the movement of the car mileage by the same figure as you would multiply the movement of the tons, your dividend and divisor increase in the same proportion in each instance, so that your result is the same, and gives you the average number of tons in each loaded car.

Q. Is the average number of tons per loaded car mile the same as the number of tons contained in the cars, divided by the number of cars?

A. Yes, sir.

Q. On your cross-examination something was said by Counsel about the products of the earth; he says "Sand, clay and coal" as illustrations, in connection with certain stations on the Missouri Pacific Railway; and you said in that connection that products of the earth might be carried as interstate shipments, and are.

I will ask you if you have investigated how it is about Illinois coal being transported on the Missouri Pacific Railway to points west of St. Louis?

A. Yes, sir. We found that practically all the stations outside of Jefferson City, obtained practically all their coal from the state of Illinois.

Q. On your cross-examination, in working out a problem
4455 on a theory which Mr. Hagerman submitted to you, you said: "The result of that would make 66¼ cents per ton; that is costs." Is that per ton of revenue freight, or all freight?

A. That is revenue freight.

Q. You figured that out for Mr. Hagerman, but the record does not show how you reached that, and I wish you would go through the process so the record will show just how it was arrived at: How did you get that 66¼ cents?

A. The operating expenses of the Company, as shown by page 3 of Exhibit 5-*a*, are $4,203,320.24 for the year 1905. The total ton miles of revenue freight in the state of Missouri are, as shown by

Item 9 of Exhibit 30, -582,747,634. This latter figure of ten ton miles, divided in to the former figure of expenses, gives a result of 7.2 mills per ton per mile as the cost of the revenue freight. This figure of 7.2 mills multiplied by 92, the average haul of all freight in the state of Missouri, as shown by column 9 of Exhibit 19, gives a total cost per ton, of 66.24 cents, or practically 66¼ cents.

Q. And that is the way you reached your 66¼ cents to which you referred?

A. Yes, sir.

Mr. HAGERMAN:

Q. That makes 66¼ cents per ton, figured out on the ton mile basis?

Mr. LADD:

Q. Are the figures shown in Exhibits 29 and 30 based on the Company's figures in Exhibits 26 and 27?

A. I think you mean the figures shown in Exhibits 28 and 29.

4456 Q. Perhaps I do.

A. In the first column of Exhibit 28, the cost per ton is shown to be 57.946 cents.

Q. What I ask you now is, are the figures shown in Exhibits 28 and 29 based on the figures shown in Exhibits 26 and 27, the latter being the analysis of Seperintendents' Operations, Forms 1940 and 1941?

A. Yes, sir.

Q. Do those figures in those two Exhibits, No's 26 and 27, include the Company tonnage?

A. Yes, sir.

Q. While the 66¼ cents arrived at on your cross-examination, is based on revenue tonnage: is that right?

A. Yes, sir.

Q. Suppose the figures in Exhibits 28 and 29 were based on revenue freight alone, how much would the increase of cost per ton, both state and interstate, be—what per cent?

A. About 11 percent.

Q. Why?

A. The company freight ton miles is shown by the annual report of the President for the year ending June 30, 1906, to amount to about 10% of the total ton miles, and ten per cent of the total ton miles would be about eleven percent of the revenue ton miles.

Q. And the cost of the 11 percent, if it was added to the cost shown in your Exhibits 28 and 29, would pertain equally to state and interstate freight, wouldn't it?

A. Yes, sir.

4457 Q. So the relative proportion between the cost of state and interstate freight, as shown by Exhibits 28 and 29, would not be changed, would it?

A. No, sir. And I might say here that the only purpose of these

Exhibits 28 and 29 was to show the relative cost of the two classes of freight per ton in the state of Missouri.

Q. Look at Exhibit 28: Starting with the basis which you did, in the preparation of Exhibit 28, and following out the assumptions contained in that, the result is 57.946 cents average cost per ton; is that right?

A. Of the interstate freight, yes.

Q. Now, I wish you would add to that this 11 percent due to having taken into consideration the Company freight, and see what that 57.946 would become?

A. It would become 64.384 cents.

Mr. HAGERMAN:

Q. The result of that would change every figure you have there, wouldn't it?

A. No, sir. It will not change any figure except the total cost per ton, as shown by those two Exhibits.

Q. Is that the item "Total cost per ton, Single Cost" that you are dealing with now?

A. Yes, sir.

Mr. LADD:

Q. Look at Exhibit 29? for the state freight, and you have the figures 37.745 cents: add your 11 per cent to that, and what does that become?

A. 41.939 cents.

Q. So you have this result: 64 cents and a fraction for interstate; and forty-one cents and a fraction for state, as against 66¼ 4458 for the whole; is that right?

A. Yes, sir.

Mr. HAGERMAN:

Q. Then if I understand you, Exhibit- 28 and 29 are gotten up so that whatever is shown there includes Company freight, as well as revenue freight?

A. They were gotten up on the company's figures, which do include company freight.

Q. There is nothing of that sort appearing on the Exhibit?

A. The first item on the Exhibit would indicate that.

Q. Which is that?

A. "Average cost per ton, including Company material."

Q. On which Exhibit is that?

A. There it is (indicating); and, furthermore, these statements are very clear, I think, in stating that they are predicated upon Exhibits 26 and 27, which set out that fact clearly.

Q. The result would be that every figure you have there would have to be accordingly cha-ged, if you were to get up a statement to apply simply to revenue?

A. Yes, sir.

Q. Every figure you have in both Exhibits 28 and 29?

A. Yes, sir, about 11 percent; the change being in both state and interstate, however, the relative comparison would not be affected.

Mr. LADD:

Q. Assuming that the cost of interstate freight is 64.384 cents, according to those figures, look at your Exhibit 19 and tell me the revenue per ton for interstate freight?

4459 It is shown by Column 5 of Exhibit 19 to have been 82.2 cents per ton.

Q. Those are gross earnings?

A. Yes, sir.

Q. If the cost was 64.384 cents, what percentage is that of the earnings?

A. 78.35 per cent.

Q. What were the interstate earnings in Missouri, as shown by page 3 of Complainant's Exhibit 5?

A. $3,777,390.45.

Q. What is 78.33 per cent of that?

A. $2,958,829.94.

Q. On that theory, those would be the interstate expenses.

A. Yes, sir.

Q. By Exhibit 19, what is the revenue per ton of state freight?

A. It is shown by Column 5 of Exhibit 19 to have been 86.63 cents per ton.

Q. Assuming that the cost per ton on the state freight is 41.939 cents, as you did a few moments ago, what percentage is that of the earnings?

A. 48.42 per cent.

Q. What were the state earnings in Missouri, as shown by page 3 of Exhibit 5?

A. $1,632,856.14.

Q. Apply the percentage of expense, 48.42 to that, and what does it make?

4460 A. $790,628.94.

Q. What do you have for state expenses?

A. $790,628.94.

Q. What do you have for interstate expenses?

A. -2,958,829.94.

Q. Add them together and what would that amount to?

A. $3,749,458.88.

Q. Add to that $480,000, we will say, an assumed overcharge to the Missouri on account of the Kansas City Terminal expenses, and what does that amount to?

A. If you add $480,000 to the expenses arrived at as above, of # 3,749,458.88, it would make a total of $4,229,458.88.

Q. What are the total operating expenses in Missouri, according to page 3 of complainant's Exhibit 5-*a*?

A. $4,203,320.24.

Q. And what is the difference?

A. $26,138.64.

Q. Look at Exhibits 26 and 27, being forms 1940 and 1941: According to those Exhibits what was the average cost per ton mile for hauling all kinds of freight on the Missouri Pacific System?

A. 4.578 mills per ton mile.

Q. I wish you would look at that same sheet, and tell what it costs per ton mile on certain divisions of the system: take what is called the "Joplin Division"; that was referred to the other day, I think.

A. The Joplin Division, as shown by sheet 2 of form 1941
4461 which was not put in evidence, and is not a part of Exhibits 26 or 27——

Q. Mr. Hagerman called your attention to it the other day on cross-examination.

A. Yes sir; the cost per ton mile on that division is shown to be 6.457 mills.

Q. As compared with what on the entire system?

A. 4.578 mills.

Q. Is the Joplin Division entirely in Missouri, do you know?

A. No sir, it is not.

Q. Do you know what proportion of its mileage is in Missouri? Have you a book here which shows?

A. During three months of the year ending June 30, 1906, I understand that 251 miles, out of a total of 586 miles included in the Joplin Division, were in the state of Missouri; and during nine months of the period covering the year ending June 30, 1906, I understand that 251 miles, out of a total of 458 miles included in the Joplin Division, were in the State of Missouri.

Q. There was a little change made in the Division during that period?

A. Yes sir, there was a change in the territory on October 1st, 1905.

Q. I wish you would look at that same sheet, of its companion sheet: you have already told what it shows as to the cost per ton mile in the Joplin Division, being 6.457 mills; now take what is called the Eastern Division in Missouri. That, unless I am
4462 mistaken, runs from Rock Creek, near Kansas City, to Kirkwood.

Mr. HAGERMAN: It does not include any of the terminals at Kansas City or St. Louis. The tonnage, I understand from Mr. Johnson, is included from Kansas City clear into St. Louis, but it does not include any of the terminal expenses.

You understand it that way, don't you, Mr. Ludlam?

A. Yes sir.

Mr. LADD: I do not understand that what is called the Eastern Division included either St. Louis or Kansas City.

Mr. HAGERMAN: The ton miles are calculated clear in, but the expense is not included in this calculation. They take the entire ton miles from Kansas City clear into St. Louis, but they exclude from the estimate anything concerning the cost of the terminals at Kansas City or at St. Louis.

Mr. LADD: Is that right, Mr. Johnson?

Mr. JOHNSON: In figuring up the cost of what we call the Eastern Division?

Q. In figuring up the cost of what you call the Eastern Division,

you base the entire cost on the entire distance from Kansas City to St. Louis?

Mr. JOHNSON: In figuring our ton mileage, we ignore the St. Louis and Kansas City terminals. Shipments from Kansas City to St. Louis would be allowed the full mileage of 283 miles on the Eastern Division. But the expense of those shipments, that is, all of the St. Louis terminal expense, is eliminated. That is done simply because we have a separate Superintendent and sep-
4463 arate operating expenses at the Kansas City terminals. That is handled by the switch engines at the terminals, and the result would be that we would have no terminal expense at Kansas City or St. Louis.

Q. Let me see if I understand you: these sheets here show the average cost per ton mile of what you call the Eastern Division?

Mr. JOHNSON: Yes sir.

Q. In reaching that, of course, you take the total cost and divide it by the total ton miles: that is the only way to do it?

Mr. JOHNSON: Yes sir; the total cost on the Eastern Division.

Q. In your divisor of the total ton miles, did you include the miles from Kirkwood to St. Louis, and the miles from Rock Creek to Kansas City?

Mr. JOHNSON: A. The ton mileage; yes.

Q. How far is Kirkwood from St. Louis?

Mr. JOHNSON: Kirkwood is about thirteen miles from St. Louis.

Q. Mr. Ludlam, look at that same form, and tell us what it shows as to the cost per ton mile on what is designated by the Company as the Eastern Division?

A. 3.487 mills.

Q. A little less than three and a half mills?

A. Yes sir, a little less than three and a half mills.

4464 Q. And what division runs from Kirkwood to Rock Creek?

A. Yes sir, I so understand. I might say that, according to those statistical sheets, it handles apparently five-sixths of the freight business of the Missouri Pacific Railway in the State of Missouri.

Q. That is, the Eastern Division?

A. Yes sir.

Q. Look at some other Divisions there, and get the average cost per ton mile?

A. The Central Kansas Division is 4.154 mills.

Q. About four and a half mills, or a little less than that?

A. Yes sir.

Q. That is the Central Division?

A. That is the Central Kansas Division.

Q. Does that show what are the termini- of that division?

A. This sheet does not show it.

Mr. LADD: Mr. Johnson, do you happen to know? Is that all in Kansas?

Mr. JOHNSON: The Central Kansas Division is 27 miles out of Kansas City in Missouri, and the balance of it is in Kansas.

Q. How much is in Kansas, just roughly.

Mr. JOHNSON: About 425 miles, out of a total of 450, is in Kansas.

Q. Mr. Ludlam, take some other Division?

A. The Omaha Division is 5.136 mills.

Mr. Johnson, is that all in Kansas?

4465 Mr. JOHNSON: 21 miles is in Missouri.

Q. What is the mileage of the entire Division?

Mr. JOHNSON: 572 miles.

Q. Does the Eastern Division include what Mr. Doddridge speaks of as the "Low Line," the river line?

Mr. JOHNSON: Yes sir.

Q. It takes in the main line from Kirkwood to St. Louis: is that right?

Mr. JOHNSON: It takes in from Kirkwood to Rock Creek, and all branches.

Q. It takes in the river line, from Jefferson City to the point of junction with the main line?

Mr. JOHNSON: Yes sir. It takes in everything between Kirkwood and Rock Creek, east and west.

Q. Both of those lines?

Mr. JOHNSON: Yes, sir.

Mr. HAGERMAN:

Q. Even the branch lines?

Mr. JOHNSON: Yes sir, including all the branches up to Pleasant Hill. The Joplin Division is from Pleasant Hill south.

Q. Then the Eastern Division takes in the main line from Kirkwood to Rock Creek, what is called the "River Line," from Jefferson City to the point of junction with the main line up near Kansas City, and takes in all the branches between Kirkwood and Pleasant Hill: Is that right?

Mr. JOHNSON: Yes sir.

Mr. LADD:

Q. What is the entire mileage of the Eastern Division?

Mr. JOHNSON: 626 miles.

4466 Mr. LADD:

Q. Mr. Ludlam, take some other Divisions?

A. The Northern Kansas Division is 7.024 mills.

Q. That is all in Kansas, I suppose?

Mr. JOHNSON: The Northern Kansas Division is in Kansas and Nebraska.

Q. None of it is in Missouri?

Mr. JOHNSON: No, sir.

The MASTER:

Q. Then the 626 mileage of the Eastern Division is exclusive of the mileage from St. Louis to Kirkwood, and also the Kansas City terminals?

Mr. JOHNSON: 626 is the track mileage of the Eastern Division proper.

Q. And while in determining the expense per ton mile, as shown on these sheets, you use the mileage from Kirkwood to Rock Creek, yet you include in the expenses both the Kansas City and St. Louis terminals?

Mr. HAGERMAN: It is just the other way. In ascertaining the ton miles, although the Division does not go beyond Kirkwood or Rock Creek, they do use all the mileage clear into Kansas City, and clear into St. Louis, and then in applying the expenses per ton per mile the application is exclusive of all terminal expenses at both Kansas City and St. Louis.

The MASTER: Then, the ton mileage cost would have to be very materially increased?

Mr. JOHNSON: Yes sir.

Mr. LADD:

Q. How far is it from St. Louis to Kirkwood?

Mr. JOHNSON: About thirteen and one-half miles.

Q. How far is it from Kansas City to Rock Creek?

4467 Mr. JOHNSON: About seven miles. It is twelve miles from Rock Creek Junction to Ramapo, and I think the exact mileage from Kansas City to Ramapo is 4.56 miles.

Q. What do you call Kansas City, the state line?

Mr. JOHNSON: Yes sir, the state line.

Q. You say it is seven miles from Rock Creek junction to the state line?

Mr. JOHNSON: Yes sir.

Q. And thirteen and one-half miles from Kirkwood to St. Louis?

Mr. JOHNSON: Yes sir.

Q. What is the total mileage of the Eastern Division?

Mr. JOHNSON: The total mileage of the Eastern Division is 626 miles.

Q. And that includes the 13 and the 7 miles?

Mr. JOHNSON: No sir, it does not. That is the mileage of the Eastern Division proper. The mileage of the entire Eastern Division, including a portion of the Kansas City terminals, and the St. Louis terminals,—that is, providing they were not separate operating divisions,—if I remember aright, would be 689 miles.

Q. Mr. Ludlam, I will ask you what percentage the mileage from Rock Creek to Kansas City, assuming that to be seven miles, and the mileage from Kirkwood to St. Louis, assuming that to be thirteen miles—is of the Eastern Division?

A. About three per cent.

Q. And it would make what difference, then; the difference between the ton miles, if the ton miles were calculated upon the

4468 basis of the Eastern Division mileage, would be three per cent different from the result if the ton miles were calculated on the basis of the Eastern Division and the distance from Kirkwood to St. Louis, and the distance from Rock Creek to Kansas City: is that it?

A. The ton miles shown by these statements (including Forms 1940 and 1941) include the mileage into St. Louis and Kansas City.

Q. But the difference is three per cent?

A. The main track mileage of the two terminals is three per cent of the mileage of the Eastern Division.

Mr. HAGERMAN: There is no misunderstanding between us, that the cost per ton is exclusive of those two terminals?

A. Yes sir, exclusive of those two terminals, but including all other terminal expenses.

The expenses of the White River Division for the year ending June 30, 1906, are shown by this Form 1941 to have been 9.389 mills per ton mile.

Q. How much of that is in Missouri, and how much in Arkansas, Mr. Johnson?

Mr. JOHNSON: It is all Iron Mountain. No part of that is Missouri Pacific. The White River Division is an Iron Mountain Division, that runs from Carthage to Diaz, and for practically the entire period was two lines. It ran from Carthage, by way of Diaz, up, and there was a break between them.

Q. It runs down through that rough country?

Mr. JOHNSON: Yes sir.

4469 Q. Mr. Ludlam, take some other Division?

A. The expenses of the Wichita Division are shown to be 5.632 mills.

Q. Mr. Johnson, how much of that Wichita Division is in Missouri?

Mr. JOHNSON: It is all in Kansas.

Q. Mr. Ludlam, assume for the purpose of a calculation, that the cost per ton mile for all freight in Missouri was the same as on the Joplin Division, 6.457 miles; and that all of the state traffic cost twice as much per ton per mile as the interstate; what would the interstate cost per ton mile, and what would the state cost per ton mile?

A. The interstate would cost 5.66 mills, and the state would cost 11.32 mills per ton mile.

Q. Look at your Exhibit 19, being the result of the operations of the Company for October, 1905: what were the interstate earnings per ton mile?

A. They were shown by column 8 of Exhibit 19, to have been .7796 cents.

Q. About seven-tenths of a cent?

A. Yes sir.

Q. It is 7.796 mills?

A. Yes sir.

A. And, according to the Joplin Division cost, and assuming the cost of all to be the Joplin Division cost, and the state traffic cost twice as much as the interstate, the interstate costs 5.66 mills?

A. Yes sir.

4470 Q. What percentage is 5.66 mills of 7.796 mills?

A. 72.60 per cent.

Q. What were the interstate earnings for 1905, as shown by Complainant's Exhibit 5-*a*?

A. For the year 1905 they were $3,777,390.45.

Q. Apply your percentage of expense which you have just reached, 72.60, to that, and what is the expense?
A. $2,742,385.47.
Q. What does that leave the net earnings on the interstate business?
A. $1,035,004.98.
Q. That is on the basis of the cost per ton mile being the same as on the Joplin Division, and the state traffic, all of it, costing twice as much as the interstate traffic?
A. Yes sir, twice as much per ton per mile.

Mr. HAGERMAN:

Q. For what year would that be the net earnings?
A. 1905.

Mr. LADD:

Q. Look at Exhibit 19, and state what you arrived at as the earnings on the state business per ton mile in the month of October, 1905?
A. It is shown by column 8 of Exhibit 19 to have been 16.619 mills.
Q. Upon the basis of the whole expense per ton mile for all kinds of business being the same as on the Joplin Division, and the state traffic costing twice as much as the interstate per ton mile, you arrived at the result that the state traffic cost 1.132 cents per ton mile?
4471 A. Yes, sir.
Q. Or, 11.32 mills?
A. Yes, sir.
Q. What percentage is that of the revenue on the state traffic per ton mile?
A. 68.11 percent.
Q. Apply that to the state earnings for the year 1905, as shown by the company's Exhibit: what were those earnings, according to that paper?
A. $1,632,856.14.
Q. What is 68.11 per cent of that?
A. $1,112,138.32.
Q. And what does that leave the net earnings on the state traffic?
A. $520,717.82.

Mr. HAGERMAN:

Q. What expenses are included in these estimates of yours? "Conducting Transportation" alone, or all operating expenses?
Mr. LADD: He takes the figures for the Joplin Division.
A. Which includes everything.

Mr. HAGERMAN:

Q. What did you call "expense," the interest and taxes?
A. No, sir, all the operating expenses, as shown by Exhibits 26 and 27.

Q. But nothing more than what is shown by Exhibits 26 and 27?
A. No, sir.

Mr. LADD:

Q. In your cross-examination the other day, you used this language in answer to a question by Counsel:

4472 "On the basis of Mr. Hagerman's request a moment ago, taking the expenses as shown by the Company's Exhibit 5-*a*, and dividing it by the number of tons, the expenses amounted to about 66¼ cents per ton for all state and interstate, carload and less than carload freight. The total cost in the state of Missouri was 66¼ cents. The cost here of the interstate is 57.9 cents, and of the state 37.7 cents, per ton (indicating Exhibit)."

I suppose at that point you were referring to Exhibits 28 and 29?

A. Yes, sir.

Q. Then you proceed to say: "Now of course, the state is only a small portion of the interstate freight, and therefore the cost of both together on this basis would be reduced just about as much as what we consider the excess charge on the Kansas City terminals amounts to."

In that connection you did not refer to the fact of the Company freight being ten per cent of the total freight. I will ask you if that, too, should be considered?

A. Yes sir, I should have made allowances for the item of company freight in that statement, as well as the Kansas City terminals.

Q. You said yesterday, in cross-examination, that you thought the terminal expense on freight originating or terminating at Kansas City—I think you said it might be twice as much, and perhaps three times was the outside and two the inside limit, as on freight passing through Kansas City: does that apply to all

4473 freight passing through Kansas City, or only to freight passing through Kansas City on the Missouri Pacific Railway?

A. On the Missouri Pacific Railway only.

Q. How would the expense be, as to freight which was taken from or turned over to the Missouri Pacific Railway at Kansas City by some other company?

A. I think there would be very little difference in that case. I used the words "originating" and "terminating" as applying to the system; not necessarily the actual point of origin or destination of the freight itself, but where the Missouri Pacific Railway received or delivered the freight. Whether it was the actual point of origin of the freight, or whether it was delivered by some connecting road.

Q. In speaking of freight passing through Kansas City, you would distinguish between freight coming in and passing out on the Missouri Pacific Railway, and freight coming in on one system and being turned over to the Missouri Pacific Railway, would you?

A. Yes, sir.

Q. Would the expense be greater or less at that terminal in the case of freight transferred to or from the Missouri Pacific Railway?

A. In my judgment, the expense would be much greater where the freight was received or delivered by the Missouri Pacific to or from another line than it would be when it went into or out of Kansas City under its own control.

Q. In answer to a question of Mr. Hagerman's, you divided the interstate earnings in Missouri for 1905, as shown by
4474 the Company's Exhibit 5-*a*, by the earnings per ton as shown by Exhibit 19, the latter being 82 cents and a fraction, and you reached the number of tons as 4,595,366. You did the same thing, in the same way, for the state traffic, and found the number of tons to be 1,884,862. That was for the whole year 1905?

A. Yes, sir.

Q. Assuming those to be the respective number of tons of state and interstate traffic, what was the percentage of the interstate tons of the whole?

A. 70.91.

Q. And what was the percentage of the state tonnage?

A. 29.09.

Q. What does Exhibit 19, for the month of October show as to the relative percentages of state and interstate traffic handled during that month, in tons?

A. The percentage of the total number of tons of interstate was 75.26, and of state, 24.74.

Q. 75.26 in October, as against 70.91 in the whole year?

A. Of interstate, yes.

Q. What did it show as to the state, what percentage?

A. 24.74 per cent, during the month of October, and 29.09 for the year.

Q. You also worked out for Mr. Hagerman, on Exhibit 30, the percentage of the ton miles for 1905, as shown by Exhibit 9; Exhibit 30 shows that the ton miles of interstate was 83.14 per cent, and the state was 16.86 per cent?

4475 A. Yes, sir.

Q. Turning from the comparison of the amount of tonnage, and the percentage of the different classes of tonnage for the year, compared with the percentage of the same classes of tonnage for the month of October, what was the percentage of state revenue to the total revenue, in October?

A. 25.73 per cent.

Mr. HAGERMAN:

Q. That is, by Exhibit 19?

A. Yes, sir.

Mr. LADD:

Q. For the same period, according to Exhibit 19, what was the percentage of tonnage?

A. 24.74 per cent.

Q. Look at complainant's Exhibit 5-*a*, showing the transactions

for 1905, and according to that what was the percentage of the state revenue for the year, of the whole revenue?

A. 29.27 per cent.

Q. The percentage of state revenue for the year, according to complainant's Exhibit 5-*a*, was 29.27 per cent of the whole freight revenue, was it?

A. Yes, sir.

Q. And according to your figures, derived from Exhibit 19, the percentage of state tonnage was 29.09 for the year?

A. Yes, sir.

Q. 29.09 per cent in your case, and 29.27 per cent, according to their figures, compare tonnage with revenue?

A Those are both their figures for the year. But the revenue was 29.27 for the year, and the tons were 29.09 for the year.

4476 Q. But in order to reach the 29.09, you had to use your figures, showing the revenue per ton in the month of October, of 82 and a fraction cents, didn't you?

A. Yes, sir.

Q. How did the percentage of the state revenue for the year compare with the percentage of the state revenue for the month of October: was it larger or smaller?

A. It was larger.

The MASTER:

Q. Was the revenue larger for the month than for the year?

A. The ratio of state to interstate, no sir. It is a ratio of state revenue to total revenue, of 25.73 per cent during the month of October; and it is 29.27 per cent, during the year.

Q. But in the month of October they did nine per cent of the business of the year, as I understood you a while ago?

A. That was of the business, as a whole, 9.2 per cent.

Q. That would be 108 per cent for the whole year, instead of 100, making the month of October larger?

A. Yes, sir.

Q. What conclusion should be reached from the circumstance I have just mentioned: that is, that the month of October is considerably larger than the average month, and yet for that month the ratio of state to interstate traffic was smaller than for the year?

A. If I expressed an opinion upon it, just off-hand, and without considering the question—and it has not been brought to

4477 my attention before—I should say that was an indication that the state business was more stable and regular than the interstate, and the increases and decreases would be relatively more in the interstate than in the state. And whereas, October, in the case of the total months, was larger than the average month, the state business in that month was a smaller proportion to the total, with a similar proportion maintained throughout the year, through the lean months and the big months, would finally result in the state's proportion of the total for the year being larger than for the month.

Q. How would the expenses of October compare with the expenses for the year?

A. We haven't those figures.

Mr. LADD:

Q. Mr. Ludlam, referring to His Honor's question, in Exhibit 19, what is the percentage of the state revenue for the month?

A. 25.73 per cent.

Q. What is the percentage of the state revenue for the year?

A. 29.27 per cent.

Q. In Exhibit 19, how did you treat the live stock business at Kansas City: did you treat that as state or interstate?

A. We treated that as interstate business.

Q. How has the company treated it in its statement by which the percentage of 29 and a fraction is reached?

A. As state business.

4478 Q. They treat it as state and you treat is as interstate business?

A. Yes, sir.

Q. Suppose in your Exhibit 19, you had treated all the live stock business as state business, instead of interstate, what difference would it have made?

A. It would have made a difference of $10,423.35.

Q. What difference would it have made in the percentages? Your percentages, according to Exhibit 19, are 74.27 for interstate, and 25.73 for state: Suppose you had treated the Kansas City live stock business as state business instead of interstate, what would those percentages have been?

A. The ratio of the state business would have been increased to 27.75 percent, and the interstate would have been decreased to about 72.25 percent, of the total.

Q. In that case, then, your Exhibit 19, for the October business, would have shown that 27.75 percent of the revenue came from the state business, as against the showing made by the company in Exhibit 5-*a*, for the whole year of 29.27 per cent?

A. Yes, sir.

Q. What is the difference?

A. 1.52 percent.

Mr. HAGERMAN:

Q. If you had left the live stock business stay as it is in the company's account, your percentages in column 2, as between state and interstate, would have been something else instead of 75.26, and 24.74: what would they have been?

4479 A. I did not figure that.

At this point recess was taken until 2 o'clock, P. M.

After recess on Thursday, March 7th, 1907, the following proceedings were had:

Mr. LADD:

Q. I want to call your attention to Exhibits 28 and 29: your first figure in all three colums of both of those Exhibits is 17.92 cents; that is the average cost per ton for station and yard service; Where did you get that 17.92?

A. From Exhibit No. 26.

The MASTER:

Q. That is the analysis of Superintendents' Operation?

A. It is form 1941, Analysis of Superintendents' Operations for the year ending June 30th, 1906.

Mr. LADD:

Q. That purported, did it, to show the average cost per ton for station and yard service on the entire Missouri pacific system?

A. Yes, sir.

Q. Did those sheets, forms 1940 and 1941, from which you took that, show the average cost per ton of any of the other items of expense?

A. No, sir.

Q. In your statement, Exhibit 28, you are trying to work out a cost per ton based on Forms 1940 and 1941 if you can, are you?

A. Yes, sir.

4480 Q. For the other items of expense, in Exhibits 28 and 29, how did you work out the cost per ton? You say, the cost per ton was not worked out on those Exhibits, except in the case of station and yard service: How did you work it out?

A. We took the cost per 100 ton miles for the other items of operating expenses, as shown by form 1941, and reduced that to the average haul of the state and interstate freight in the state of Missouri.

Q. And in that way, you got at the cost per ton, based on the showing in 1940 and 1941, of 100 tons one mile?

A. Yes, sir.

Q. You were endeavoring to, and I suppose did, follow as far as you could, these forms 1940 and 1941: is that right?

A. Yes, sir.

Q. To see where it would lead you: is that right?

A. Yes, sir. For the purpose of determining an approximate figure of the cost per ton in the state of Missouri, of the state freight and the interstate freight.

Q. Based on Forms 1940 and 1941.

A. Yes, sir.

Q. Now why did you take the 17.92 as the average cost per ton?

A. Because I thought that would be a fairer figure in attempting to determine the cost per ton in the state of Missouri, than it would be to take the cost per ton mile, shown by form 1941, for station and yard service, inasmuch as I thought the terminal expenses would be greater in the state of Missouri, in which the two

4481 largest terminals of the Missouri Pacific system are located, than it would be on the system as a whole.

Q. When you say "fairer" you mean fairer to whom?

A. It would be nearer correct in determining the cost in Missouri. I thought it would be fairer for the purpose of these statements.

Q. Of this statement Exhibit 28?

A. Yes, sir. And Exhibit 29.

The MASTER:

Q. Then the figures 17.92 cents in the first item of these two Exhibits 28 and 29, are not taken from Form- 1940 or 1941, but are deductions made from the figures given in those forms?

A. No, sir.

Q. You get those original figures from the form itself?

A. Yes, sir. 17.92 cents is the average cost per ton for station and yard service, on the entire system.

Q. As shown by form 1940?

A. Yes, sir, as shown by form 1940.

Now, the average cost per 100 ton miles on the system for station and yard service is 7.66 cents, and on the 105 miles hauled that would make this figure something like 80 cents: and although the average haul of the interstate freight in Missouri is only 105 miles, as compared with the average haul of 237 miles for all of the freight on the system and of course the terminal expense increases with the length of the haul, the more you use them, at the same time, on account of the expensive terminals of the system being located in Missouri, we thought, for the purpose of determining the
4482 cost in Missouri, it would be fairer to take the cost per ton on the whole system than to take the ratio of cost per 100 ton miles on the system as a whole.

Mr. HAGERMAN:

Q. You found that 17.92 and you adopted it for the purpose of that statement: is that it?

A. Yes, sir.

Q. I understood you to say that for the purpose of this statement, the purposes you had in mind in the preparation of these statements, Exhibits 28 and 29, that is, to build up a cost per ton based on the figures contained in Forms 1940 and 1941, you thought it would be fairer to take their estimate of the cost per ton for the station and yard service, than to arrive at that in any other way: is that right?

A. Yes, sir. That was particularly so, I might explain, because in Missouri the haul of the interstate is 105 miles, and the haul of the state freight is 52 miles, so that that works out about twice as much per ton per mile for the state freight as for the interstate freight, which we believe is about correct.

Q. As a general proposition, independent of your purpose in preparing this statement, and independent of forms 1940 and 1941, and not attempting to follow them, would you yourself have arrived at the expense of the station and yard service, upon the ton basis, or the ton mile basis?

A. Upon the ton mile basis, for the reason that in my judgment the terminal expenses increase the same as all other items of expense, the more you use them. Therefore, the further the freight goes, the greater the expense would be.

4483 The MASTER:

Q. The average cost per ton for station and yard service, 17.92 cents, is taken bodily from form 1940, as I understood it?

A. Yes, sir.

Q. But the cost for train service in the second item of Exhibit 28, is not taken from that form, but is computed from the figures given as to the 100 ton miles, in form 1941?

A. Yes, sir. Reduced to the average haul in the state of Missouri.

Q. And 4.305 cents represents the cost per ton of train service?

A. Yes, sir.

Q. That is to say, that figure is derived from your computation reducing the 100 ton miles to tons?

A. To 105 miles, which is the average haul in Missouri.

Q. Does 1940 and 1941 give the train service per ton?

A. They do not. They give no statistics whatever as to cost on the per ton unit, excepting for the station and yard service.

Mr. LADD:

Q. I see that in both of these statements, in each of the three columns of both statements, you carry the 17.92 right through: that is right, isn't it?

A. Yes, sir.

Q. So far as that affects the expense of the state freight per ton per mile, what is the result of carrying the 17.92 into the cost of the state freight?

A. It is nearly double as much per ton per mile for the state freight as for the interstate freight, for the reason that the
4484 cost per ton being the same, 17.92, it would be twice as much per ton per mile for a haul of 52 miles, the state mileage, as it would be for 105 miles, the interstate mileage.

Q. That is to say, when you apply the 17.92 to the state freight running 52 miles, it means twice as much per ton per mile as when you apply it to the interstate freight running 105 miles: is that it?

A. Yes, sir.

Q. So, when you said you thought it was fairer to reach this cost per ton as to the station and yard service, instead of per ton per mile, you mean for the purpose of building up this cost per ton, in following the figures given in forms 1940 and 1941: is that it?

A. For the purpose of preparing those Exhibits 28 and 29, which were then under discussion.

Q. I want to ask you one more question; it has been gone over, I expect, but I would like to ask you:

You have said that your opinion is that the ton mile basis is more accurate than any other, both for the purpose of ascertaining cost and earnings, in an effort such as we are engaged in in this case, to ascertain the difference between revenue, as well as cost, which exists between state and interstate traffic:

Now, I wish you would state, as briefly as you can, why in your opinion the ton mile basis or method of arriving at a result is more accurate than any other? And if there are any reasons why the ton mile basis is not as accurate, as the revenue basis?

4485 A. In my judgment, you have to consider two elements: the first is the weight of the freight, and the second is the distance which it travels. All railroad rates are made upon the distance that the freight is going: What I mean by that is, if you go to an agent to ship freight, he does not merely ask you what it weighs, without regard to where it is going, whether from here to San Francisco, or from here to Kansas City. The rate is necessarily based upon the distance which the freight is going, as much as it is upon the weight. It takes the two elements into consideration; first, the weight of the freight; and second, the distance it is going.

For the purpose of illustration, you might compare it with the passenger legislation just passed in this state and now under consideration. The rate is so much per passenger per mile. It does not stop with the passenger. It would be absurd to pass a law that the railroad should charge only so much per passenger, twenty-five or fifty cents; because the number of passengers is only one element. The distance they are going is another element to be considered.

The ton mile unit takes into consideration both the element of the weight of the freight and the distance it is going: just as the bill passed by the legislature takes into consideration the distance the passenger is to travel.

Mr. HAGERMAN: It just says so much per mile.

A. Yes, sir, exactly what the per ton mile unit does. You cannot conceive of a freight rate being quoted of so much per ton. It is all governed by those two elements.

By Mr. LADD:

4486 Q. When we are trying to ascertain or approximate as nearly as possible under the circumstances, the relative cost of doing state and interstate business, is it in your opinion, an essential feature to be taken into consideration, the difference between the interstate haul and the state haul?

A. Yes, sir, it is one of the most essential elements, and without taking that into consideration, in my judgment, you cannot arrive at any conclusion that means anything.

Q. Would that be true, speaking generally, Mr. Ludlam, of the operating expenses taken as a whole, in order to get an average?

A. To get an average that would mean anything, you would have to reduce it, in my judgment, to the per ton mile unit.

Q. On all the operating expenses.

A. Yes, sir.

Q. Do you mean to say—I don't suppose you do—that we reach in that way an accurate result?

A. No, sir. I think there are certain elements that enter into the question that makes it impossible to determine the absolute cost of the two classes of freight.

Q. But you do think we reach a result which is more nearly the true situation, in that way, than in any other way; is that it?

A. Yes, sir.

Recross-examination.

By Mr. HAGERMAN:

Q. I asked you this morning to have a compilation made
4487 of your figures, upon the supposition that the live stock business in and out of Missouri, to and from Kansas City stockyards, had been treated as the Company treats it, as state business: I now hand you that compilation, which has been handed to me by Mr. Talliaferro, and ask you to verify it, if correct?

A. (After examining statement.) Yes, sir.

Mr. HAGERMAN: I offer in evidence this paper as Complainant's Exhibit 19-*a*.

Complainant's Exhibit 19-*a* is in words and figures following to wit:

4488 Q. According to the method by which you compiled Exhibit 30, in comparison with Exhibit 19, you reached an increased percentage of tons and ton miles: I want to know if the example could be done as to the percentage of total revenue—You catch the meaning?

A. I think I understand what you mean.

Q. I don't know where it would lead us.

A. Taking the gross freight earnings of the year 1905, as shown by page 3 of Exhibit 5-*a*, the state earnings of $1,658,527.67 would amount to 29.27 per cent of the total earnings of $5,666,961.91; and the interstate gross earnings of $4,008,434.24 would amount to 70.73 per cent of $5,666,961.91.

Q. The same as set out in Exhibit 6?

A. Yes, sir.

Q. So, if you would undertake to calculate the percentage by the method you adopted in ascertaining the ton miles tonnage as shown by Exhibits 30 and 30-*a*, the results would be the same, in percentage, as shown by Exhibit 6?

A. The percentages as shown by Exhibit 6-*a* agree with the percentages just given.

Q. Then this tabulation, as Exhibit 30-*c*, would be correct as to the percentages?

A. As to the percentages, it would be correct.

Q. Some confusion gets into the case at times, in regard to what is included by the different witnesses under the head of "expenses": I had Mr. Roth make a tabulation of the earnings and oper-
4489 ating expenses, with no allowances for extra cost for doing state business, and leaving that entirely for the finding of the court. Exclusive of interest, taxes, and rentals, just upon the revenue basis, which would share—as I understand—the operating expenses, on the percentages of 29.27 per cent for 1905 that is right, isn't it?

A. Those are the proportions of the state earnings and interstate earnings in relation to total earnings.

Q. And it is upon the basis of the tonnage, as shown by your Exhibit 30-*a*; and then upon the basis of your ton mileage, as shown

by your Exhibit 30. I would like to produce that now, as Exhibit 38-*a*, subject to any correction you may make, after running over the calculation to see if it is right?

A. I would like to make the statement that it is not my understanding that Exhibit 30-*a* was my Exhibit.

Q. It was put in in connection with your cross-examination, and I meant your Exhibit only in that sense.

I presume if there is any error in ascertaining the amount from these percentages, it is like all the other exhibits subject to your correction?

A. If the figures are correct, I think the exhibit is correct.

Q. And if you find them incorrect, you will so notify us?

A. Yes, sir.

Mr. HAGERMAN: I will offer this paper in evidence as Complainant's Exhibit 38-*a*.

Complainant's Exhibit 38-*a* is in the words and figures following to-wit:

4490 Mr. HAGERMAN:

Q. For the purpose of that statement, that eliminates the question of taxes, rentals and interest, which have never been on the books of the company, divided as between state and interstate, or even as between freight and passenger: that is a fact, isn't it?

A. That is my understanding.

Q. With your knowledge of the general situation, upon the assumption that we may be wrong, and you may be right, that that is something that should not be charged as an expense at all, and is something upon which this increased cost has no application, I would like to have your opinion as to how you would deal with the question of interest, taxes, and rental, in a situation of this kind: Where would you assign it, as an original proposition?

A. I would assign it as an income charge.

Q. First as an income charge?

A. I would assign all three of those items as income charges.

Q. Take the question of taxes: that is something which is fixed, and follows the property wherever it is located; Why would you call that an income charge, and assign it to income?

A. Because it is generally so classified by the railroad accountants and the Interstate Commerce Commission so classifies it.

I think the reason for doing that is because the operating expenses are something that it is considered the officers are
4491 responsible for, and they seek to reach that figure without the taxes being included.

Q. Whether a man was operating the road good or bad, the taxes would be just the same, and would be something he would have no control over?

A. Yes, sir. That is my idea. It is something he would have no control over, and, therefore, it is classified separately.

Q. From my observation, and what experience I have had on the subjects, these leases are always between the tenant and the parent company, and the taxes themselves are treated as maintenances, and

charges upon a wheelage basis, as distinguished from a fixed charge: Has that been your experience?

A. In dividing taxes between two roads, that is usually the method.

Q. Isn't that treating it as an operating expense?

A. I would not say as an operating expense. It is the basis of apportioning that charge.

Q. I think I understand your view about it.

The MASTER:

Q. What is the difference between an operating expense, and an income expense?

Mr. HAGERMAN: I want to get what his ideas are.

Q. Is there any practical difference when you get to the substance of the thing, between an income and an operating expense?

A. Confining my answer to the question of taxes, I would say there is not much difference, because the operating expenses and the taxes are both something that the railroad has to pay. There may be charges made against income, for betterments and im-
4492 provements, and things of that kind, which are entirely matters of discretion and judgment.

Q. But you would not treat the taxes in that way?

A. It would be my idea, speaking broadly, that the taxes would be an expense.

Q. Whatever subdivision might be made, in the accounting, in reality, as setting it off against the earnings, that is an expense, in your judgment?

A. I should not think there would be any question about that.

Q. What would you do about the question of rentals?

A. I should consider that a necessary expense.

Q. Why isn't that a matter of operating expenses just about as much as anything else? Why should it be separately classified?

A. That again is something that the operating officials are not responsible for.

Q. Aren't they responsible for it, in the sense that they are the ones who make it, and know whether they need it, and whether it is necessary to have it, or better to have it, than to build a track of their own? So isn't it a point they are responsible for, as distinguished against the point you made on the taxes?

A. As a general proposition, I should say, No, because those leases are made generally for long terms, say ninety-nine years, or sometimes nine hundred and ninety-nine years. Generally those leases are effected before the present officials took charge of the road. At any rate, it is something that is regarded as an item which
4493 cannot be decreased or increased by good management or poor management.

Q. Therefore, while, speaking broadly, you would call it an expense in the way of operation, still you would make the same kind of a distribution, practically, as you do as to taxes?

A. I would call it an expense, Mr. Hagerman.

The MASTER:

Q. You would charge it up against income, in order to determine the net profits of the road?

A. There is no question but what it is an expense. Mr. Hagerman said I would term it an expense of operating, and I do not quite do that.

Mr. HAGERMAN:

Q. In a br*a*od sense, in ascertaining the net income to come from a property, you would treat that as an expense?

A. Unquestionably.

Q. How about taxes: How would you deal with that question?

A. How?

Q. You would treat that as an expense?

A. Unquestionably. There is no doubt but what a railroad has to pay taxes.

Q. Therefore, you would treat that as something to be charged against income?

A. Oh, unquestionably.

Q. Take a case of this kind, where upon the books of account of the company there has never been any separation of those three charges, taxes, rental and interest, as to state and interstate,
4494 and the property is used in both the passenger and freight business, upon what basis, as an original proposition, would you deal with that in making your distribution: First, as between passenger and freight; and, next, as to the state and interstate business?

Mr. LADD: Your last question embraces interest: do you mean that?

Mr. HAGERMAN: Yes, I mean the three things.

Mr. LADD: You did not say anything about interest before.

Mr. HAGERMAN: It was my mis-statement then. I was assuming that your answer applied to interest.

A. You did not ask anything about interest.

Q. I used the word "taxes," then, when I meant to say interest.

How would you distinguish between taxes and interest, as to interest being an expense or not?

A. I think interest is purely a return on the money invested in the property. I do not think you could construe that in any sense as an expense. Of course, it is something the road has to pay, but I think it would go into a wholly different category than anything that should be considered as expense.

Q. You would not consider that as a part of anything that would be paid out of the earnings?

A. Of course, it would be paid out of the earnings, but it should not be classified as an expense.

Q. In arriving at the point of what you are going to have, net where would you charge the interest?

A. I would charge it against the income.

Q. And then seek to find what the balance was?

A. Yes.

4495 Q. In that way you would, in a broad sense, in an inquiry of this kind, charge it as an expense?

A. Oh, no, I did not say that. We have not treated it as such in this case.

Q. Nobody seems to have treated that interest, so far as dividing it up on any fixed basis: What I wanted to get was your opinion about it, and I was saying, first, that you treated it like taxes, and that in a broad sense it was an expense that ought to be met, however it was to be distributed: you will not agree with that?

A. I would not term it an expense, but a return upon the investment.

Q. You would say it had to be a return, in some way?

A. Unquestionable it would have to be a return in some way.

The MASTER: It would not be a return to the man who pays it.

Mr. HAGERMAN: It is a return.

The MASTER: It is a return to the man who holds the bond; but it is not a return to the man who pays the interest. If the railroad company pays the interest, out of what fund is it to pay it? For instance, in marshalling these different *finds* in an inquiry of this sort, from what fund would it pay it.

A. Unquestionably the interest on bonds has to be paid by the company out of the earnings of that company from the operation of its business.

4496 Mr. HAGERMAN:

Q. And before it gets any return on its property?

A. I think it is a return on its property. The bonds represent a part of the cost of that property. That represents a proportion of the returns on the property, the bond upon which the interest is accruing.

Q. You make the point of distinction between the taxes and the interest?

A. Yes, sir. There is a distinction.

Q. Assuming that you are wrong about that, it should be co classified as are the taxes, and between state and interstate, passenger and freight, dealing with it as an independent proposition, how would you deal with a situation of that kind—just broadly, now? Would you deal with it upon the basis of percentage of tonnage, or revenue, or ton-miles?

A. Do you want my idea of it?

Q. I just want your idea.

A. As to what would be the ideal way?

Q. Yes, What would be the ideal way?

A. I do not think there is any question about the interest on the bonds being apportioned against your net earnings. That was my judgment.

I think your taxes ought to be apportioned on the per ton mile basis.

I should say that your rentals should be apportioned on the per ton mile basis. On the ton miles moving over the rented track.

Q. Now, then, how would you deal with the question of
4497 interest in distributing, first as between passenger and freight earnings, and then as between state and interstate?

A. I think interest would be distributed between passenger and freight, in my judgment, on the basis of the net earnings from the freight and the passenger business, as near as they could be determined.

Q. Practically, upon a revenue basis?

A. A net revenue basis, not gross revenue.

Q. I presume whether it was net or gross would depend. There would not be any difficulty in the situation, if we agreed upon the basis for arriving at it, because it brings us back to the original controversy we had about the ton mile basis.

A. Yes, sir. That is why I asked you if you meant "the ideal way."

Q. Assuming either one of us may be wrong about this, what would you divide between passenger and freight would be upon a revenue basis? That is, giving you credit that your theory may be right, and giving me credit that my theory may be right?

A. I say on a net revenue basis.

Q. What would be the difference between gross and net?

A. The operating expenses.

Q. You would have to distribute them in some way, as between passenger and freight?

A. Yes, sir.

Q. And that would be your idea about dividing it?

A. Yes, sir.

Q. And would that apply not only as between freight and
4498 passenger, but also as between state and interstate portions of each class?

A. Yes, sir, talking about the interest.

Q. Yes, the interest.

A. Yes, sir.

Q. But the taxes you would deal with and distribute practically as you do the rest of the operating expenses?

A. Yes, sir.

4499 T. A. HAMILTON, a witness of lawful age, being duly produced, sworn and examined on the part of the defendant, testified as follows:

Direct examination.

By Mr. S. B. LADD:

Q. Give your name in full.

A. T. A. Hamilton.

Q. Where do you live?

A. St. Louis, Missouri.

Q. What is your age?

A. 33 years.

Q. What business have you been engaged in since you have been at work?

A. In the railroad service until last June.

Q. State what your experience has been.

A. I started back in 1890 with the Canadian Pacific Railroad Company at Toronto, Ontario, as messenger boy. I worked there several months a-d I went from there to the Chicago & Grand Trunk Railway Company as Junior Clerk in the office of the Assistant General Manager.

Q. How long were you there?

A. About a year.

Q. Then what did you do?

A. I came to St. Louis in 1891, and went to work in the Missouri Pacific Railway Company's General Auditor's office.

Q. In what capacity?

A. In the Freight Accounting Department. The first work I did there was filing tissue copies of waybills as they came into
4500 the office from the road, putting them up in station order for use in the Auditor's office.

I afterwards tabulated those waybills, for two or three years, to compile an abstract for the basis of checking Agents received reports.

After that I did miscellaneous work around the office until I left the service.

Q. How long were you with the Missouri Pacific Railway Company?

A. I left the service after being there one and a half years, and went to Houston, Texas, with the Southern Pacific Railway Company.

Mr. HAGERMAN:

Q. When would that take you away from the Missouri Pacific Railway? You went there in 1891?

A. Yes sir, if my memory serves me right.

Q. Then in 1892 you left there?

A. In 1892 or 1893 I left there.

Mr. LADD:

Q. How long were you with the Southern Pacific Railway Company?

A. Two or three months.

Q. Then what did you do?

A. Then I went back to the Missouri Pacific Railway Company.

Q. What did you do with them then?

A. I went into the freight Auditor's office and went back to the same class of work I had given up when I left the service.

Q. How long did you remain with them after you went back to the Missouri Pacific Railway Company?

4501 A. I left the Missouri Pacific Railway Company, finally, in July, 1900.

Q. Then what did you do?

A. I went from the Missouri Pacific Railway Company to the Illinois Central Railroad Company at East St. Louis.

Q. What did you do there?

A. Rating and billing freight in the outbound department. I was with the Illinois Central Railway Company a little over a year. Then I went from the Illinois Central to the Louisville and Nashville Railway Company.

Q. Where?

A. At East St. Louis.

Q. What were you doing there?

A. Bill clerk and rate clerk and afterwards, chief bill clerk in charge of the outbound, rating Southeastern and Mississippi Valley freight.

Q. How long were you with them?

A. I was with the Louisville and Nashville Railway Company continuously until 1903. In the fall of 1903 I went out to the new terminal of the Iron Mountain, at Bixby, Ill., immediately south of East St. Louis. I was the first man out there in the station, except the telegraph operator, when the station was opened. I stayed there about two months or a little over.

Q. What were you doing during those two months?

A. I was doing nearly all the work, every character of work. Billing freight outbound and revising inbound, and carding cars in the yard, in case of emergency.

Q. You were the agent?

A. No sir, Mr. Kell, was the agent, but I was chief clerk.
4502 But whatever work came up at the new terminal, which was just in progress of adjustment, I assisted in doing.

Q. Then what did you do?

A. I was Chief Bill Clerk for the L. & N. Railway. It was understood that I should go back if I wanted to, when I took charge of the Iron Mountain station.

I stayed as Chief Clerk in the office at East St. Louis until May, 1905 and then I was promoted to Chief Clerk in the office of the General Agent of the Traffic Department of the L. & N. Railway Company at St. Louis.

I remained in that position until June of last year when I entered the employ of Haskins & Sells.

Q. You have been with Haskins & Sells ever since, have you?

A. Yes sir.

Q. As an employee of Haskins & Sells have you had anything to do with the investigations growing out of what are called the Maximum Rate cases in Missouri, of which this is one?

A. Yes sir.

Q. I will ask you directly, whether you have been connected with the examination of the waybills of the Chicago, Burlington & Quincy Railroad Company for the month of September 1906?

A. Yes sir, I was in charge of that work in behalf of Haskins & Sells during its entire progress, until its completion.

Q. When did that work begin?

A. November 10th, 1906.

Q. And where was the principal part of it done?

A. In the Auditor's office of the Chicago, Burlington & Quincy Railroad Company at Chicago.

4503 Q. When was that completed?
A. Some two weeks ago.

Mr. HAGERMAN:

Q. That would be what day?
A. I can give you the exact date. (After consulting memorandum book.) It was completed on the evening of Monday, February 18, 1907.

Mr. LADD:

Q. From the time when that work began, some time in November, were you in Chicago continuously?
A. Yes sir.
Q. Representing Haskins & Sells?
A. I was there during the entire progress of the work.

Mr. HAGERMAN:

Q. Were you the man who had charge of doing the work or was there some one over you there?
A. The work was done by employees of the Burlington Railway Company.
Q. But on the part of Haskins & Sells?
A. Yes sir.

Mr. LADD:

Q. You were there continuously during that time?
A. Yes sir.
Q. And was that your sole occupation?
A. It was, yes sir.
Q. By whom was the examination of these waybills actually done?
A. By clerks in the employ of the Chicago, Burlington & Quincy Railway Company.
Q. By whom were they selected, Mr. Sturgis?
A. By Mr. Larmer, assistant auditor of freight accounts, who was in charge of the work so far as the Burlington Railway Company was concerned.
4504 Q. How many Chicago, Burlington & Quincy Railroad Company men were employed on that work?
A. The number varied from two to ten and sometimes for a day at a time as many as thirty men were on the work.

Mr. HAGERMAN:

Q. Were you the only Haskins & Sells man on the work?
A. Yes sir, except for a day and a day and a half.
Mr. HAGERMAN: I don't know that Your Honor understands that there was an agreement between Counsel for the State and Counsel for the Complainant, that Haskins & Sells were to have men in the office of the Chicago, Burlington & Quincy Railroad Company while this work was being done by the employees of the railroad company.

Mr. LADD:

Q. Where was the greater part of that work done, at Chicago?

A. Yes sir.

Q. Some of it was done at Omaha?

A. Yes sir. Some at Omaha and some at Kansas City.

Q. Why was that? Because some of the waybills were at those places?

A. Some of the waybills were on file in Omaha and some at Kansas City. That is due to the Burlington Railway Company's system of filing their records.

Q. But the work at Omaha and Kansas City, as I have been informed, was relatively a small part of it: Is that right?

A. Yes sir.

Q. Did you go out to Omaha and also to Kansas City?

A. No sir. I intended to say that Mr. Hudson, one of our employees, did that work out at Omaha and also at Kansas City.

4505 Q. Now what part did you take in the work at Chicago?

A. I supervised the work, overlooked the work of each clerk engaged on it, and saw that he understood what he was doing and that the work was intelligently done along the lines agreed upon. That the business was properly classified, that the entire work of the statement was properly done.

Q. You, or Haskins & Sells, had agreed with the Burlington people as to the method that should be adopted in getting this information: Is that right?

A. Yes sir.

Q. And as to the method of tabulation, too?

A. To a certain extent. The Burlington people in the summarizing of it, in the final winding up of the figures, suggested methods, which they called "short cuts" in it, and while we did not quite agree with them in that part of the work, it was done in that way to save time.

Q. Did you go over the work with Mr. Hudson and this other man, if there was another man, who was detailed to Omaha and Kansas City, so they were informed as to the methods to be followed?

A. Yes sir, Mr. Hudson came and spent considerable time in the office of the Chicago, Burlington & Quincy Railway Company at Chicago and was informed as to the way the work was being done, before going to Kansas City and Omaha. All that was obtained in Kansas City and Omaha was the abstract of the tonnage from the waybills, and that was sent to Chicago and the results drawn off there.

4506 Q. So the results of both Kansas City and Omaha were sent to Chicago and combined with the work which had been done in the general offices at Chicago: Is that right?

A. Yes sir.

Q. How was that work or the results of it preserved?

A. The sheets on which the tonnage and revenue were drawn off from the waybills and which were the basis of the statement, together with the final papers in the summarizing of it, were tied up

in packages, the sheets numbered and counted, tied up in packages and sealed and put in vaults of the Burlington Railway Company.

Q. And they are there now?

A. The understanding was that these seals were not to be broken unless someone was present who was interested in behalf of the State.

Mr. HAGERMAN:

Q. That is, the idea was that nobody except you and the people of the Burlington Railway Company were to have access to these figures?

A. Yes sir, and the Burlington people only when we had representation.

Mr. LADD:

Q. I want to call attention now to an exhibit which I will presently offer in evidence as Exhibit 40——

Mr. HAGERMAN: We except to it because it is a statement as to the Burlington Road, and has not any bearing upon the Missouri Pacific Railway Company's case. We have——

4507 Q. Were all the waybills which dealt with freight which touched Missouri on the Chicago, Burlington & Quincy Railway during the month of September 1906, examined?

A. The Burlington people turned over for examination to the clerks assigned to the work, all of the waybills passing over any portion of their system. At least, the waybills turned over were said to be all the waybills passing over any portion of their system.

Q. All the waybills on the whole system?

A. Yes sir, regardless of whether they touched Missouri or not. These waybills were examined and such as touched Missouri or came into Missouri or went from Missouri to outside points, were taken into the statement.

Q. The first column here in this exhibit is the number of tons?

A. Yes sir.

Q. That was taken from the waybills, was it?

A. Yes sir.

Q. The third column is the revenue: That was taken from the waybills, was it?

A. Yes sir. The information given in the third column was derived from the billing; that is, the figures in the third column are not the total of the freight columns on the waybills taken into the statement.

Q. What is that?

A. The figures in the third column are not the totals, for the reason that some of them were interline waybills and the freight revenue shown on the face of the waybills belonged partially to some line or lines other than the Burlington.

4508 Mr. HAGERMAN:

Q. You mean by "interline shipment" one over two lines?

A. Yes sir, and waybilled through.

Mr. LADD:

Q. The third column shows the revenue that the Burlington Company got?

A. In the State of Missouri, yes.

Q. Have you seen Exhibit 19, which has been offered in evidence in this case, being the result of the operations of the Missouri Pacific Railway Company for the month of October 1905?

A. Yes sir.

Q. Is this Exhibit 40 prepared upon the same lines?

A. Yes sir. Exactly.

Mr. HAGERMAN: Exhibit 19 does not divide into the two classes, the interstate freight.

Mr. LADD:

Q. How many columns are there: are there the same number of columns?

A. Nine columns across the page.

Q. Substantially the same headings?

A. The same cross-headings.

Q. In what respect does the first column, which deals with the number of tons, differ from the first column of Exhibit 19, which deals with the number of tons on the Missouri Pacific Railway?

A. The interstate business is divided into two classes in this Burlington statement No. 40.

Q. What classes are they?

A. Through interstate, which covers business passing clean through Missouri in transit. That is, having neither origin
4509 nor destination, so far as the Burlington Railroad or its connections inside the State.

The second class of interstate covers the business originating in Missouri and going outside, and business originating outside and terminating in Missouri; or business going from one Missouri point to another and going out of the State in transit.

Mr. HAGERMAN:

Q. If you had the first eight lines omitted from Exhibit 40, would the rest of it, except the number of the lines, be exactly on the same lines as on Exhibit 19?

A. I don't know.

Mr. HAGERMAN: Is not that right, Mr. Ludlam? If we would start with line nine on Exhibit 40 it would be on the same basis as Exhibit 19?

Mr. LUDLAM: Yes sir.

Mr. HAGERMAN: The difference is the insertion of lines, 1, 2, 8, dividing between through interstate and second class interstate business?

Mr. LUDLAM: Yes.

Mr. LADD:

Q. Now take column one: I wish you would state what part of the information contained in column one of Exhibit 40 was fur-

nished by the Burlington Railroad Company's employees to you, and checked over by you and found to be right: Take it by lines. I want to separate your work which you did subsequently from the work which you both agreed on.

Mr. HAGERMAN: I submit that violates all rules of evidence. He does not confine himself to any matters. He is taking it from
4510 some other person's investigation, without having those papers here.

The MASTER: You are going into an investigation of this kind with as much circumstantiality and detail as if it were a statement of the defendant's company here under investigation.

Mr. LADD: I simply want to show what part of the work was joint work of himself anf the Burlington people and what part he did afterwards.

The MASTER: What difference can it make, unless it was assailed as incorrect. It is assumed to be correct. It has not been assailed. It would be evidence in rebuttal at best, it seems to me.

Mr. LADD: I did not want it to go into the records that the Burlington people actually made all the figures on this The percentages were really made by our people. I wanted to show what figures he made and which were made jointly.

The MASTER: That might be very important in the Burlington case but I do not see what bearing it has on this case.

Mr. HAGERMAN: If this statement is to be offered in this case I think the only way is to bring the Burlington people here and prove what they did and then prove what this man did.

The MASTER: If this evidence is admissible at all it is admissible only as a comparison between this road and a road which is similarly situated to this road, for a certain specific month, as exhibiting practically by comparison the results of a month's business between the two roads.

Now, beyond that, it is clearly of no value.

4511 Mr. LADD: Will Your Honor permit me to show which of these columns are his work?

The MASTER: Yes you may show that.

Mr. LADD:

Q. Take the lines from twenty to twenty-six at the bottom: Are those your work?

A. Yes sir.

Q. Take column two: Whose work is that, yours or yours and the Burlington people?

A. That is my work.

Q. Take columns four and five: Are those your work or your joint work with the Burlington?

A. Those figures were all made by me.

Q. Take columns, seven, eight and nine: Whose work were they?

A. Those figures were all made by me.

Q. Give by lines in column one your work.

A. Lines 4, 8, 10, 11, & 12; 16, 17, 18 to 26, inclusive.

Mr. HAGERMAN:

Q. Did you mean 10 & 11? That is the one that separates the carload and less than carload?

A. Those totals carload and less than carload are the totals of the interstate business. Those figurese were made by us. Lines 10 & 11 are totals, lines 2, 6, 3 & 7——

Mr. HAGERMAN: Excuse me, that is right.

Mr. LADD:

Q. Now what is your work, if any, in column three?

A. Lines four, eight, ten, eleven, twelve, sixteen, seventeen to nineteen, inclusive.

Q. In column six what is your work?

A. Lines 4, 8, 10, 11, 12, 16 to 19, inclusive.

4512 Q. And all the rest is the joint work of yourself and the Burlington employees, is it?

A. All of the rest in columns one——

Q. All the rest except that I have called your attention to?

A. Yes sir.

Mr. HAGERMAN: The sum and substance is, you did the mathematical calculation of this thing and you got the figures in the way you speak of in order to make your calculation?

A. The number of tons, the revenue, and tons one mile were compiled by the Burlington.

Q. And you made the mathematical calculation?

A. Yes sir.

Mr. LADD: I will here offer in evidence this paper as defendant's Exhibit 40.

Exhibit 40 is in the words and figures following to-wit:

4513 Q. Mr. Hamilton, have you made from the books or the records of the Missouri Pacific Railway Company for the month of October, 1905, an examination for the purpose of ascertaining at what stations in Missouri interstate freight was handled?

A. Yes sir.

Q. I understand from Mr. Taliaferro that your examination instead of being made from the records were made directly from the working papers which were obtained by your people in doing your work for the month of October: Is that correct?

A. Yes sir, that is correct.

Q. How many stations in Missouri are there where freight can be handled on the Missouri Pacific Railway?

A. As shown in the Missouri Pacific Official list of stations and agents, dated March 1, 1906, there are 324.

Mr. HAGERMAN:

Q. Is that the sum total of stations in Missouri?

A. The sum total of stations in Missouri at which freight could ordinarily be handled.

Q. Does that include the Iron Mountain or is it the Missouri Pacific alone?

A. The Missouri Pacific only.

Mr. LADD:

Q. How many of those 324 stations were stations where freight can be handled or points where freight can be handled, or what are called "flag stations?"

A. I have not prepared that figure in that case. I can get the information for you in a few moments.

Q. I will not wait for that. There are 324 stations where
4514 freight can be handled?

A. Yes sir.

Q. At how many stations was freight of some kind handled during that month?

A. 115 of the 324 stations handled no business at all.

Q. In October?

A. Yes sir.

Q. What were those 115 stations: What are they called?

A. All of them were stations at which no freight agency was maintained.

Q. What are they called?

A. Usually, "prepaid stations" and sometimes "flag stations".

Q. How are they indicated on the book you have just referred to, if they are indicated at all?

A. By a star preceding the station name.

Mr. HAGERMAN:

Q. You mean the figure Exhibit 19 was a made up there were 115 stations which during the month of October, neither received nor sent out any business at all: Is that what you mean?

A. Yes sir.

Mr. LADD:

Q. Those are what you call "prepaid" or "flag stations", is it?

A. Yes sir.

Q. No agent is maintained there?

A. In some instances a ticket agent, but no freight agent.

Q. Have I asked you or are you able to tell how many of
4515 that kind of station- there are in all on the Missouri Pacific Railway in Missouri?

A. I have not prepared that figure but can tell you in a few moments.

Q. Those 115 stations were all that kind of station-?

A. Yes sir.

Q. At how many stations was freight of some kind handled during that month?

A. 209.

Q. How many of those 209 stations were these, what you call "prepaid" stations, where they do not keep a freight agent?

A. I will have to count the list. We have not the information in that case but I can get it for you in a moment or two.

Q. Let me ask you this question: Out of the 209 stations how

many stations were there which handled State business but no interstate business?

A. Thirty.

Q. How many of those thirty stations which you say handled State but not interstate business, handled both carload and less than carload State business?

A. Five.

Q. What did the other twenty-five handle?

A. Less than carload business.

Q. Less than carload business only?

A. Yes sir.

Q. These thirty stations which handled nothing but State business, were they these "flag or prepaid stations"?

4516 A. They were all prepaid stations.

Q. How many of the 209 stations handled interstate freight but no State freight?

A. Five.

Q. Of those five, how many handled carload business only.

A. Three handled carload business only, one handled both carload and less than carload, and one handled less than carload only.

Q. How many stations in all handled both classes of business, State and interstate?

A. One hundred and seventy-four.

Q. How was it about the agency stations, stations where there is an agent: Did they all of them handle both kinds of business?

A. All of the agency stations handled both State and interstate business.

Q. How many agency stations were there?

A. I have not arrived at that figure. I have not the exact number of prepaid stations included in these 324.

Q. These 324 includes what?

A. All stations.

Q. And you have not figured it out how many were non-agency stations?

A. No sir.

Q. How long will it take you to do that?

A. About five minutes. (After calculating) There are 191

4517 non-agency freight stations in Missouri on the Missouri Pacific Railway.

Q. Mr. Hamilton, it seems that at some of these non-agency stations, and perhaps most of them, some freight is handled: How do they handle it? Suppose a train comes along there with some freight for that non-agency station, what is done with it?

A. If it is less than carload, it is unloaded from the car, on the platform, if one is there, or on the ground, by the train crew. If it is a carload and there is a side-track, the car is placed on the side-track and left there.

Q. At these non-agency stations are there always buildings, station houses?

A. There may be and there may not be. There may have been a freight agent at one time and a building may still be there. There

may be a platform and a regular stopping place for the train, without a building.

Q. Business at such stations as that would be comparatively very small?

A. It would be so light that it would not justify the keeping of a freight agent there and that would be the reason for no agency being maintained.

Q. Are some stations of that sort, you say there are some stations of that sort, where there is no building but simply a platform?

A. Yes sir.

4518 Q. Would there be any collection of inhabitants, a little hamlet, at such a place?

A. Perhaps not in the immediate vicinity but in the near vicinity in the country.

Q. Suppose one wanted to ship freight from such a place, how would he manage?

A. It would be picked up by the local crew in the same manner that the freight would be delivered there.

Q. The owner of the freight would leave it on the platform or even on the ground?

A. Yes sir, depending on the method prevailing on the road. They might go and flag a train and they might leave it there and the train would pick it up, without any signal.

Q. Suppose freight is to be delivered at such a station as that: In some cases you say no freight agent is there to take care of it. They would put it on the platform and what would become of it?

A. The freight is unloaded at the owner's risk at a prepaid or flag station. The waybill covering the freight is carried by the conductor to the next agency station and filed there.

Q. You found that expression "prepaid" in the book you have for the Missouri Pacific Railway?

A. Yes sir. The stations preceded by a star means "prepaid station".

Q. What does that mean?

A. It means a station, the charges on freight for which must be prepaid at the point of shipment.

4519 Q. In the case of a shipment from such a station, what would be done?

A. The freight would be picked up by the train crew, and carried to the open agency next to the point of shipment, and waybilled from that point. The waybill would ordinarily show not only the billing station but the station from which the freight was picked up.

Q. That would not be prepaid?

A. If the freight was going to a prepaid station, the shipper would have to go to the billing station, and arrange for prepayment, or prepay to the conductor.

Q. Were there any of the stations on the Missouri Pacific, other than these prepaid stations, which did not handle both state and interstate freight in that month?

A. One. St. Joseph, Missouri. All freight going in and out of

St. Joseph on the Missouri Pacific Railway was treated as interstate freight, by reason of the fact that it had to be hauled at least part of the way through Kansas to reach St. Joe.

Mr. HAGERMAN:

Q. How about all the freight between East Atchison and St. Joseph?

A. There was one station between Atchison and St. Joe, Winthrop, which was a flag station. We have no record in the working sheets for October, 1905, of any freight being billed to or from Winthrop.

Mr. LADD:

Q. Then at all the stations except the prepaid stations, interstate freight was handled during that month?

4520 A. Yes sir.

Q. And at all the stations, except the prepaid stations, state freight was also handled, unless the freight going into and coming out of St. Joseph should all be regarded as interstate freight: That is what you mean to say?

A. That is correct.

Q. How long is the line from Kansas to St. Joseph, which is used by the Missouri Pacific Railway Company?

A. Twenty-one miles.

Q. By whom is that line owned?

A. My understanding is it is owned by the Burlington Road, the Chicago, Burlington & Quincy Railroad. I may be mistaken on that point, but it is a joint track, used by the two roads.

Q. That is, the Missouri Pacific Railway has a running privilege over it?

A. It has trackage rights over it.

Q. Do you know whether the Missouri Pacific Railway Company does any local business over that line? Do you know whether it does or not?

A. I believe not. They show but one station in their station list, as being located on that twenty-one miles, and that is Winthrop, Missouri, which would indicate that they were willing to do business possibly at that flag station. Winthrop is on the east bank of the river at the end of the Atchison Bridge.

Q. Is that a flag station?

4521 A. Yes sir, it is shown as a prepaid station. And it is the only station shown between St. Joseph, Mo., and Atchison, Kansas.

Q. If the Missouri Pacific Railway does not do any of the local business on that twenty-one miles, than all of the freight going into St. Joseph, or coming out of there, on the Missouri Pacific Railway Company is interstate freight, is it?

A. Yes sir.

Cross-examination:

By Mr. HAGERMAN:

Q. Did you make any examination of anything except a memorandum that some other clerk had made, from which you got this

information as to where the freight comes from that went to make up Exhibit 19?

A. I did not quite understand the last part of your question.

Q. Did you, in getting up your figures as to these stations from which freight was taken, or to which it was taken, as shown in Exhibit 19, have any knowledge upon this at all yourself?

A. Yes sir, general knowledge.

Q. Did you see a single waybill?

A. No sir.

Q. Did you see a single paper that the railroad company had, or a book of the railroad company, in reference to it?

A. I made use of their official list of stations and agents.

4522 Q. That is a printed list of agencies, that is all?

A. Yes sir.

Q. You got your figures, or made your tabulation, from some figures of some kind that the clerks of Haskins & Sells had made?

A. I got my figures from the working papers from which Exhibit 19 was compiled.

Q. What kind of papers are those?

A. They are our working papers, showing the information drawn from the Missouri Pacific Railway Company's own records.

Q. Some of your clerks had made notes in the examination of the waybills in the Missouri Pacific Railway Company's records, and from those notes you got your figures?

A. From our working papers, from which this Exhibit 19 was compiled.

Q. You mean by "working papers" memoranda they made?

A. Abstracts on which we drew off figures from their waybills.

Q. When you say "we", you mean some one else did it?

A. I participated in it.

Q. What did you do?

A. I did some of the abstracting from the waybills.

Q. What did you do?

A. I cannot specify the number of waybills I handled, but I was engaged on the work for some weeks, when it was first started.

Q. You say there were 150 of these flag stations at which
4523 in the month of October no business was handled to or from?

A. 115 is the figure.

Q. That is to say, the notes you have did not show any?

A. Yes sir.

Q. Could not that be largely accounted for by the fact that they billed that stuff to or from the nearest place where they had an agent, and whoever took your notes off did not enter it?

A. I do not think so, because our abstract sheets drawn from the waybills show if the billing is made by one agency station for another station at which there is no agent. I took that into consideration when I was calculating those stations.

Q. And you calculated that there were 115 of them?

A. Yes sir.

Q. How many stations were there altogether, from which freight was handled, as shown by these books?
A. 209 handled freight, in or out, in some direction.
Q. 209 altogether?
A. Yes sir.
Q. Thirty of these stations handled no interstate business?
A. Yes sir.
Q. That was wholly state business?
A. Wholly state business.
4524 Q. Have you any tabulation as to these thirty stations, and the amount of freight taken out of them?
A. I did not make that figure for this purpose.
Q. You could have made that up if you had wanted to?
A. It can be made up from the information we have.
Q. You could have made it from the sheets and things you had?
A. Yes sir, it could have been done.
Q. If you had wanted to get it up?
A. Yes sir.
Q. How many of the thirty stations handled only less than carload lots, twenty-five of them?
A. Yes sir, twenty-five.
Q. And these thirty stations in Missouri were where no interstate business was handled at all, but it was all state business, and twenty-five of them were exclusively less than carload lots?
A. Yes sir.
Q. And only five of them handled any carload lots?
A. That is right.
Q. At the tive, what was the comparison, in the number of shipments? That is, how many less than carload lots were shipped as against carload lots?
A. Our figures deal with the totals moving between stations, and do not segregate the individual shipments, and I have not that information here.
Q. You could have had that, too, couldn't you?
4525 Where were the five stations that handled any state business?
A. You want the names?
A. Yes.
A. Maywood, Mo.——
Q. Where is Maywood, Missouri?
A. If I recollect aright, it is just this side of Kansas City. It is between Independence and Kansas City.
Q. What was the next one?
A. Shore's Quarry Switch.
Q. What is the next?
A. Northrup, Missouri.
Q. Where is Northrup?
A. On the river line between Boonville and Independence.
Q. What is the next one?
A. Lakeside Spur.
Q. Do you know where that is?

A. On the Lexington and Southern Division.
Q. And then St. Joe?
A. Yes sir.
Q. Have you any tabulation there now at any of those interior points, of the tonnage that went out of the different stations?
A. No sir. I have no tonnage figures here. Simply a record of the business divided between state and interstate.
Q. From these sheets you had, you could have compiled any thing you wanted to in the way of information? That is, the
4526 amount of less than carload lots at any station, the amount of carload lots, the amount of state, and the amount of interstate freight, couldn't you?
A. Yes sir, expressed in pounds or tons.
Q. And you could have given the exact percentage at any place of the 209 stations represented by your Exhibit 19?
A. Yes sir.
Q. You could have gotten all that information in detail, if you had wanted to?
A. Yes sir. The information could have been gotten.
Q. That is to say, if out of any of those 209 stations, for the month of October, 1905, any information that you wanted to give the Master as to the proportionate amount of state and interstate freight, or carload or less than carload freight, you could have given it exactly from those figures, without having to take somebody else's exhibit into the case to make a compilation from?
A. We could have given a compilation of the tonnage handled of each class in and out of each station.
Q. State or interstate?
A. Yes sir.
Q. How near could you have come to giving the amount in the car, so we could have had some idea about the amount of waste tonnage, from these working sheets you had?
A. We could not make up that information from those working sheets.
Q. You could not?
A. No sir, I think that is almost impracticable.
4527 Q. Why so?
A. For one reason, a great many way-bills are made up for freight to be handled in local way trains, that are not car-numbered when the impression copy is taken for the Auditor's use, and the car number is not placed on it until the train comes along. That will practically defeat that.
Q. What you mean to say is, that in the way the railroad business is actually conducted here in Missouri, it is practically impossible to state anything about the waste tonnage in a car?
A. No sir, I do not say that, but it would be impossible to tell with any certainty the amount of waste tonnage, unless the cars were forwarded from a terminal station, when you could closer approximate it.
Q. Why is it so you could not do it, unless forwarded from a terminal station?

A. Because at the terminal stations freight is loaded into the car before the waybill is made, and the waybill bears the car number; and, barring clerical errors, the waybills should show all the freight loaded into that car.

Q. You might get an approximation to it from the main terminals in the city?

A. I think so.

Q. But as to the business out in the State, away from St. Louis and Kansas City, it would be practically an impossibility?

A. What is true of Kansas City and St. Louis would be true of stations having enough freight to fill a car before it is picked
4528 up.

Q. How many of those 209 stations in Missouri would be stations of that kind?

A. I would not care to approximate it, without going over the figures.

Q. Five per cent? Could you come that near?

A. I have not any idea.

Q. You have not any idea whether it would be as much as five per cent of the 209 stations?

A. Not without going over the figures.

Q. You have said something about 204 stations handling both classes of freight: what do you mean by that? Carload and less than carload, or state and interstate?

A. Both state and interstate.

Q. Thirty of them handled no interstate, and five handled no state freight?

A. Yes sir.

Q. That left 174, and that was the division. I did not make a note whether you meant that they handled state freight and interstate, or carload and less than carload.

A. State and interstate. That left 174, allowing for the 115 which handled no business at all.

Q. You start with 324 stations including flag stations and all, in the State?

A. Yes sir.

Q. Of these 115 were flag stations that so far as these things you examined were concerned, failed to ship any business—to
4529 show that any business was handled to or from them?

A. Yes sir.

Q. That left 209 stations in the notes from which Exhibit 19 was made?

A. Yes sir.

Q. Of the 209, thirty handled no interstate business at all?

A. Yes sir.

Q. And of those thirty, five handled both carload and less than carload lots, and twenty-five handled only less than carload lots?

A. Yes sir, that is correct.

Q. Five stations altogether handled no state, and 174 stations handled both state and interstate freight?

A. Yes sir.

Q. And that is the substance of your testimony?

A. That is correct.

Q. And the names of those stations and whether they were flag stations or not, you got from this printed pamphlet from which you read, showing the general stations on the Missouri Pacific Railway?

A. It is an official list of the stations and agents on the Missouri Pacific Railway.

Q. I want to ask you a question or two about your Exhibit 40, because I cannot go very far without it, as I have not the information. Have you the total revenue for the year 1905 on the Burlington Road, for the interstate and state business of that

4530 year?

A. This statement is Missouri's proportion of the Burlington Railroad Company's revenue for the month of September, 1906.

Q. I know, but have you it in figures for the year?

A. No sir.

Q. What I would like to know is, what per cent that total of the state business, $118,927.35, in column three, line sixteen, is of the revenue from the state business of the Burlington Railroad, either for 1904 or 1905?

A. These are 1906 figures.

Q. I know that. But for the purposes of comparison I want that.

A. I have not the figures here on the total earnings of the Burlington for either of those years.

Q. Well, can you give me column 12, line 3, the total interstate revenue for the year 1906?

A. That would be practically impossible, without making a separate compilation of figures, because a great many of the Burlington's shipments are carried on the same way-bill, both state and interstate freight. Those way-bills were each accounted for by the railroad, as one total to be collected by the agent or the connecting line.

Q. It would not be possible for you to tell me, from the figures you have in your possession, what percentage this $108,132 on line 12 of column 3 of Exhibit 40 is in amount, to the total earnings of any one year of the Burlington Road?

4531 A. I have no figures here from which I could get them.

Q. Have you any figures, or any way by which you could tell us, applying the September, 1906, statement, like Mr. Ludlam did in the Missouri Pacific case apply it by Exhibit 30-*a* to the revenue for the year, what charges or differences it would make in the percentages of the total tonnage or the total revenue or the percentage of total ton miles?

A. What is Exhibit 30-*a*? I haven't any figures here giving the Burlington's total earnings, or the revenue for the State.

Q. And therefore you could not make any calculation of that kind for us?

A. Not at the present moment, no sir.

Q. How would you get at an application of these figures for September, 1906? If you wanted to apply them to the total revenue, say for the Burlington Company, for 1905, how would you do the

example to find out the percentage of the total tons as they are set out in Mr. Ludlam's example 30-*a*?

A. This refers to another exhibit, on which it is based, Exhibit No. 30. I do not quite follow your question.

Q. Exhibit 5-*a*, upon which Exhibit 30-*a* was compiled, was a statement of the earnings of the Missouri Pacific Railway, say for 1905: Now, if you had the earnings of the Burlington Road for the year 1905, and you were going to apply your Exhibit 40 to them, how would you ascertain what the percentage of tonnage was, or what the percentage of ton miles was, as Mr. Ludlam has ascertained it in Exhibit 30-*a*?

4532 A. You mean for the state of Missouri?

Q. Yes.

A. I would like to have the other exhibit, No. 30, before I answer that question.

Q. Here it is.

A. (After examining exhibit.) I would get the tons by dividing the ton miles by the average mileage in each class of business.

Q. That you have already gotten in your Exhibit 40?

A. Yes, sir, the tons are given there.

Q. Give the earnings for the year: How would you apply those figures to that?

A. To obtain what results?

Q. To obtain the result of what the percentage would be on tonnage or on ton miles, as Mr. Ludlam ascertained it, in Exhibit 30-*a*.

A. Exhibit 30 is a division of operating expenses. I do not find anything in Exhibit 30 which refers to percentage of ton miles. It seems to be a division of operating expenses on several bases.

Q. You would not know how to get at that, would you?

A. Not without a little thought, no sir.

Q. Turn to your Exhibit 40, and compare it with Exhibit 19; because I cannot do much more than ask you a few questions about it, with the information I have now.

In Exhibit 19, which is the Missouri Pacific statement, the average length of haul for State business is 52 miles, all state business?

4533 A. Yes sir.

Q. What is it in the Burlington case?

A. 81 miles.

Q. And the average haul of interstate freight in the State of Missouri is 105 miles. What is it in the case of the Burlington?

A. All interstate freight, 135 miles.

Q. About what per cent is the 52 of the total haul?

A. On the Missouri Pacific statement?

Q. Yes. In the Missouri Pacific it is practically over twice as much, isn't it?

A. Yes sir.

Q. In the other case, your Exhibit 40, what is it? It is far from twice as much?

A. Yes sir.

Q. How much is it?

A. The state is about 40 per cent of the total haul; and the interstate is about one and two-thirds times the haul of the other.

Q. As against twice as much in the Missouri Pacific case?
A. Yes sir.
Q. The average length of haul for all interstate and state freight on the Missouri Pacific, Exhibit 19, is 92 miles: what is it in the Burlington?
A. 128 miles.
Q. How much more is that? About one-third more isn't it?
4534 A. Yes sir.
Q. Line 20 of Exhibit 40 is the ratio of revenue per ton per mile on less than carload interstate freight to less than carload state freight?
A. 48.93 per cent, a difference of about 13.41 per cent.
Q. Take your line twenty-two: That corresponds with line twelve in Exhibit 19, doesn't it?
A. Yes sir.
Q. In Exhibit 19, it is 23.78 per cent. What is it in Exhibit 40?
A. 32.43 per cent.
Q. You have made no pet cent at all to show what proportion of the year's business in the Burlington revenue these figures would fairly represent, in your Exhibit 40?
A. It would cover the calendar month.
Q. Well, would that be one-tenth, or one-eleventh, or one-twelfth, of the average business? You made no figures at all on that?
A. No sir.
Q. You have no information on that subject?
A. No sir.
Q. Take Exhibit 19 and Exhibit 40, and compare column 8: It looks to me like your decimals are in different places: what does that mean?
A. In Exhibit 19, for instance, all interstate business, the rate on carload interstate average amount received per ton per mile
4535 is shown in cents as .6667 cents, or to be more accurate, 6.667 mills.
Q. How do you know that in the corresponding figure in line 12, column 8, in your Exhibit 40?
A. It is shown as 8 mills and a fraction. It is simply a different way of expressing it.
Q. You put your decimal there two points over?
A. Yes sir.
Q. In Exhibit 40, you express it in mills, whereas in Exhibit 19 it is expressed in fractions of cents?
A. No sir, it is expressed in fractions of cents in both cases, but it is punctuated wrong.
Q. What I wanted to get, because your period does not seem to be in the same place, is that in that respect Exhibit 40 is different from Exhibit 19?
A. Yes sir.
Q. What they have done in Exhibit 19 is to express it in cents and fractions of cents, and what you have done in Exhibit 40 in the same column, is to express it in fractions of dollars?
A. Yes sir.

Mr. LADD: These people here tell me that that punctuation in column eight is wrong.

Mr. HAGERMAN: On which exhibit?

Mr. LADD: On Exhibit 40.

Mr. HAGERMAN: If he had the words dollars in column eight, instead of the word cents, wouldn't that correct it?

4536 NOTE.—The correction referred to here was made on Exhibit 40, the word "dollars" being written at the head of column eight.

At this point, the further hearing of testimony herein is adjourned until tomorrow morning, Friday, March 8th, 1907, at ten o'clock A. M.

ST. LOUIS, FRIDAY, *March* 8, 1907.

Met, pursuant to adjournment as above, on Friday, March 8th, 1907, at ten o'clock, A. M., in the Federal Building, in the City of St. Louis, Missouri.

Present: Hon. F. L. Schofield, Special Master.

Mr. Frank Hagerman appeared in behalf of the Complainant.

Messrs. S. B. Ladd and John Kennish appeared in behalf of the Defendants.

The following proceedings were had:

4537 A. P. TALIAFERRO, a witness of lawful age, being duly produced, sworn, and examined on the part of the Defendant, testified as follows, to-wit:

Direct examination.

By Mr. S. B. LADD:

Q. Give your name?

A. A. P. Talliaferro.

Q. Where do you reside?

A. New York City.

Q. With what firm are you connected, and have been for some time?

A. Haskins & Sells, Certified Public Accountants.

Q. For the last few months, where have you been temporarily located?

A. Since June 1906, I have been almost wholly in the city of St. Louis, except when I was attending the hearings in this case.

Q. Are you the one who has had immediate charge of the examination of the books and papers of the Wabash Railroad and the Missouri Pacific Railway Companies, on behalf of the State of Missouri, in this litigation?

A. Yes, sir.

Q. You were assigned to that special duty by your employers?

A. Yes, sir.

Q. You may give your experience in railroad and accounting work, such as it has been.

4538 A. I spent five years in the Motive Power Department, beginning as messenger boy and ending as Acting Chief Clerk to the Superintendent of Motive Power.

Q. With what company?

A. The Norfolk and Western Railway.

Q. Then what?

A. Then I had five years more altogether with the Norfolk & Western in the Traffic Department, part of the time, as Secretary to the Vice President, and the greater part of the time as Rate Clerk.

Q. During that experience, was it part of your duty to attend your employer, the Vice President, at meetings of Presidents and Traffic Managers?

A. Yes, sir. I went to a great many such meetings.

Q. All over the country?

A. Yes, sir.

Q. How many meetings of Traffic Managers have you attended in that way, and listened to their discussions?

A. Possibly fifty.

Q. Then where did you go?

A. Then I went to the Chesapeake & Western Railroad, in Northern Virginia.

Q. Part of this time when you were Secretary and Chief Clerk, was your Principal connected with the Reading Road?

A. Yes, sir. I had about fifty years altogether in the Traffic Department of the Norfolk and Western, and an additional year with the Philadelphia & Reading Road.

Q. In the Traffic Department?

A. Yes, sir.

4539 Then I went to the Chesapeake & Western, as general utility man, and did everything for about a year and a half, and then I was made Superintendent of the Road, and held that position for about three years. During that time I was engaged off and on on work of Haskins & Sells, as Mr. Sells was the president of the Road.

Q. That was not a long road?

A. Only twenty-seven miles.

Q. That was in Virginia?

A. Yes, sir.

Q. And after that?

A. I went to Southwest Virginia with two little roads that were built to develope some properties.

Q. In what capacity?

A. General Superintendent.

Q. What were the names of those roads?

A. The Virginia, Carolina & Beaver Dam Roads.

Q. That was a short road, too, wasn't it? How long was it?

A. Including their logging road, they had about thirty odd miles.

Q. What did you do after that, either in railroading or accounting?

A. At the suggestion of Mr. Haskins, of Haskins & Sells, I went

back to New York, to take charge of the accounts of the Houston Oil Company of Texas, and stayed in New York about eight months. The- I went to Texas, as Auditor and Treasurer of the Houston Oil Company, and its subsidiary companies, and stayed there
4540 nearly three years. About a year ago I went back to Haskins & Sells.

Q. And have been there with them ever since?

A. Yes, sir.

Q. Before that time, I will ask you whether for Haskins & Sells you had anything to do with the auditing of accounts for railroad companies?

A. Yes, sir.

Q. On special employments?

A. Yes, sir.

Q. What?

A. I was engaged on a number of pieces of work for them during the time I was connected with the Chesapeake & Western.

Q. When did you come to St. Louis?

A. June 18th, 1906.

Q. To take up the work connected with the maximum rate litigation?

A. Yes, sir, on June 18th, 1906.

Q. And have you been here ever since engaged in that work?

A. I have been here practically all the time. I have been engaged on that work all the time. I have been in Chicago and Kansas City at the hearings.

Q. On which two cases of the 18 pending in this Court have you been engaged?

A. On the Wabash and the Missouri Pacific.

Q. Which case did you take up first?

4541 A. The Wabash.

Q. Were you in charge of the examinations in the Wabash and the Missouri Pacific cases: I mean were you the leading one on the part of Haskins & Sells force which was engaged here on that work?

A. Yes, sir.

Q. How many men have you had employed here on that work, under you?

A. The number varied from two to eight, I should say as the work progressed.

Q. What connection has Mr. Ludlam had with it: he has not been here all the time?

A. No, sir, not all the time.

Q. What connection has he had with the work?

A. As a member of the firm of Haskins & Sells he has had general charge of it, and he has spent a good deal of the time in St. Louis going over matters in connection with the whole subject.

Q. And was consulted about the preparation of the Exhibits, and verifying them and all that?

A. Yes, sir, and outlined a good many of them and laid out the work for us.

Q. Have you also attended all the hearings up to this time in the Burlington case and the Wabash case and this case, in the hearings before the master?

A. Yes, sir.

Q. You have heard all the testimony?

A. Yes, sir.

4542 Q. A great number of Exhibits have already been offered in evidence by the State in this case; did you have a hand in the preparation of those Exhibits?

A. Yes, sir.

Q. Barring a clerical error which crept into one of them (I think that was Exhibit 36) and any changes that may be made necessary, are those exhibits in your opinion mathematically correct?

A. Yes, sir.

Q. In the examination of Mr. Ludlam, by Mr. Hagerman, which referred to Exhibit 19, he stated in answer to questions as to the number in which shipments of live stock at Kansas City stock yards were treated, that that Exhibit treated them as inter-state business; and he was also asked whether he had any statement that would show what Exhibit 19 would have been if that Kansas City live stock business had been treated as state business, and he said he had not: Now I will ask you if since that you have looked into that matter, and if you have I wish you would state what would be the effect on Exhibit 19, if the business to and from the Kansas City Stock yards had been treated as state business by you instead of interstate business, in that Exhibit.

In revenue, can you tell, what that part of the business during the month of October, 1905, amounted to?

A. $10,423.35.

Mr. HAGERMAN: The meaning of which would be, if it was to be treated as state business, that amount would be taken from

4543 the total interstate revenue in column 3 of Exhibit 19, and added to the total state revenue, wouldn't it: That would be the change that would be made?

A. Yes, sir.

Mr. LADD: The tonnage which would be affected by treating that as state business would be that that amount of money would be added to the revenue from state business, and a similar amount deducted from the revenue shown by that exhibit for interstate business?

A. Yes, sir.

Q. What effect would that change have on the revenue per ton mile of each class of business?

A. It would reduce the revenue per ton per mile on interstate carload business from 6.667 mills to 6.498 mills.

Q. That change would be effected in the first figures in column 8 of Exhibit 19, wouldn't it?

A. Yes, sir.

Q. What would be the effect on the revenue per ton mile on the state business?

A. The revenue per ton mile on the state carload business, line 4 of Exhibit 19, would be increased from 12.170 to 12.908 mills.

Q. You mean one cent, don't you?

A. Yes, sir.

Q. From 1.217 cents?

A. Yes, sir, to 1.2908 cents.

Q. Have you calculated what effect it would have on the revenue per ton per mile, on the total interstate business?

A. Yes, sir. It would reduce the revenue per ton per
4544 mile on all interstate business from 7.796 mills to 7.647 mills.

Q. Those are the figures in Column 3 of Exhibit 19?

A. Yes, sir.

Q. What effect would it have upon the revenue per ton mile as shown in line 6 of column 8?

A. It would increase that figure from 1.6619 cents to 1.7037 cents.

Q. So that changing that from interstate business as you have it in Exhibit 19, to state business, would result in a situation more favorable to the contention of the state, wouldn't it?

A. Yes, sir.

Mr. HAGERMAN:

Q. Mr. Ludlam, didn't you give the effect upon these percentages after that? What change it made as to the percentages of ton miles, percentage of total revenue and percentage of total tons?

Mr. LUDLAM: No, sir, I think you asked me to prepare a statement showing that, which I did prepare and which was offered as Exhibit 19*a*.

Mr. HAGERMAN: The percentages in Exhibit 19 as changed by this $10,000, is shown by the Exhibit put in evidence yesterday on the cross-examination of Mr. Ludlam.

Mr. LADD: Yes, sir.

Q. Take Exhibit 4 offered by the complainant, and state to the Master if you can, how much of the wheat handled by the Missouri Pacific Railway in Missouri in the year 1905 would have been
4545 carried under the rate fixed by the law of 1905, at higher figures than those charged in adjoining states.

A. I don't know that I can answer the question in exactly that way. There was 30 per cent of the cars of wheat carried a distance of 25 miles or under. For this distance the rate fixed by the law of 1905 in Missouri would be the same as in Arkansas: higher than in Illinois: and somewhat lower than in Iowa.

Q. Will you answer the same question as applied to corn, etc.—I don't know what etc. means.

A. Other grain. Exhibit 4 shows that 60 per cent of the cars handled were hauled 50 miles or under. The rate fixed by the law of 1905 for 25 miles is higher than in either of the other three states: and for 50 miles it is higher in Iowa or Arkansas: and the same as in Illinois.

Mr. HAGERMAN:

Q. Have you, as to these matters, gotten the tabulation of the total per cent you gave as 60 and 30?

The MASTER: Those percentages are shown on the Exhibit.

Mr. HAGERMAN: All these percents of which you speak are the same as shown on Exhibit 4?

A. Yes sir.

Mr. LADD: What does that Exhibit show, what is the relative per cent as shown by that Exhibit, in the case of flour?

A. Exhibit 4 shows that 51 per cent of the cars handled were hauled 25 miles or under. The rate- fixed by the law of 1905 are for Missouri 24 cents per car higher than in Illinois: 72
4546 cents per car lower than in Iowa: and $2.40 per car lower than in Arkansas.

Q. What is the comparison as to lime, etc.

A. The Exhibit shows that 94 per cent of the cars handled were hauled 50 miles or under. The rate- fixed by the law of 1905 for 25 and 50 miles are higher than in either of the other three states.

Q. What is the showing as to lumber and other articles mentioned as bearing the same rate, in the law of 1905?

A. 64 per cent of the cars handled were hauled 100 miles or under. The rate- fixed for those distances by the law of 1905 are in every instance higher than in Arkansas and Iowa: and for the 25 mile haul the rate is higher than in Illinois.

The rates fixed by the law of 1905 are also higher for 150 miles and 200 miles than in Arkansas and Iowa.

Q. What is the showing as to agricultural implements.

A. The Exhibit shows that 32 per cent of the cars handled were hauled 75 miles or under. The rates for distances up to 75 miles, as fixed by the law of 1905, are higher than the rates in Iowa, and for the 25 mile haul the rate is higher than in Illinois.

Q. What is the showing on salt?

A. The law of 1905 fixed rates on salt much higher than those in Iowa for all of the distances shown on Exhibit 4.

Mr. HAGERMAN:

Q. Let me understand what you are doing: You are simply picking out certain things in Exhibit 4 and showing from the
4547 face of that what it is?

A. Yes sir.

Q. Not some independent judgment, but your answers are all based on Exhibit 4?

A. Yes sir.

Mr. LADD:

Q. Go on about salt.

A. Missouri's rate would be the same as in Arkansas for 25 miles, and higher than in Illinois for the same distance. Also higher than in Illinois for 300 miles and 400 miles.

Q. What about cement?

A. According to Exhibit 4, the entire tonnage would have been

handled under the law of 1905 at rates higher than those in effect in Iowa. 69 per cent of the cars would have been handled in Missouri, under the new law, at rates higher than those in Illinois.

May I add, that the rates in these three adjoining states are based on five mile groups: whereas the rates in Missouri are based on 25 mile groups.

Mr. HAGERMAN:

Q. What do you mean by 5 and 25 mile groups: the rates change at that distance?

A. Yes sir, every five miles.

Q. And in Missouri it is every 25?

A. Yes sir, for 25, the rate is the same as for 20: and for 30 it is the same as for 50 miles in Missouri.

Mr. LADD:

Q. Take a haul of 26 miles in Missouri.

A. The roads have the right to charge the same as for 50 miles for a haul of 26 miles, in Missouri, under the rates fixed by the law of 1905.

4548 Q. Suppose a shipment in Missouri was moving three miles, under this law what would be charged?

A. The rate for 25 miles.

Q. If it is moving 26 miles the rate for 50 miles could be charged?

A. Yes, sir.

Q. In the adjoining states what would be the rates in such cases?

A. In the case of three miles the tariff for five miles would be used: and for 26 miles the tariff for 30 miles would be used.

Mr. HAGERMAN:

Q. Is that so as to Iowa, Illinois and Arkansas?

A. Yes, sir.

Q. All three of them?

A. Yes, sir.

Mr. LADD:

Q. Will you please look at Complainant's Exhibit 5-*a*, page 1. Have you made a calculation as to the ratio of earnings on commodities affected by the law of 1905, to the total earnings on state freight not including the earnings incidental to freight traffic, and if you have, what is it for each year?

A. It figures between 13 and 14 percent in each year.

Mr. HAGERMAN:

Q. What do you mean by that: commodities affected by the act are 13 or 14 percent of the revenue at the old rates?

A. Yes, sir.

The MASTER: I do not think I quite gather that.

Mr. HAGERMAN: Prior to the law of 1905, the revenue,
4549 as I understand—and if I do not understand correctly please correct me,—the revenue received on commodities affected by

the Act of 1905 would be 13 or 14 percent of the total revenue received from all business in Missouri: is that right?

A. Yes, sir.

Q. 13 or 14 per cent of the $1,632,000.

A. $227,000.00 of earnings in 1905 on the commodities affected by the law of 1905 would be 13 or 14 per cent of that $1,632,000.00.

Mr. LADD:

Q. Assuming that to be true, that the revenue from the commodities affected by this Act, are between 13 and 14 per cent, take it at 14 percent, on the total revenue from the state freight business, what percentage would that be of the total freight revenue, being the loss in revenue from the transportation of these commodities by the Act of 1905, would be 32.83 per cent—let me change that.

Assuming, as the Complainant does in one of these Exhibits, that the losses occasioned by the Act of 1905, would be 32.83 per cent in revenue on the commodities affected by the Act, what percentage would that loss be of the total state revenue?

Mr. HAGERMAN: Assuming that the loss on this revenue alone was 32.83 per cent in the fourth line of Exhibit A?

Mr. LADD: Yes, and that the loss on those commodities is 14 percent of the revenue on those commodities, what percentage of the total state revenue does that loss amount to?

A. You want me to include the miscellaneous earnings,
4550 don't you?

Q. You did before?

A. Yes.

Q. Then exclude them now.

A. It would be a little over 4½ per cent.

Mr. HAGERMAN:

Q. The meaning of that is that the $74,699.68 in the first page of Exhibit A is 4½ % of $1,658,527.67 on the 5th line: is that the idea?

A. No, sir. It is 4½ percent of the figure shown in the first line of Exhibit 5-A, page 3.

Q. You have excluded in your calculation that $25,671.53?

A. Just to keep the earnings on the same basis as the commodities affected by the new law, in the first item.

Q. If I want to know what percent of the total earnings shown by Exhibit A from the state business, the decrease in earnings at the new rate would be, you would divide this decrease as shown on the first page by the total revenue?

A. Yes, sir, it would make a very slight difference.

Q. Something in the neighborhood of 4½ per cent.

A. It would make a little less.

Q. But the fractional difference is not worth the trouble of calculating it?

A. It would not be much trouble if you want it done. The calculation shows that in the first case it is nearer 4.6 than it is to 4.5.

Mr. LADD:

Q. There has been some testimony here, I think it came
4551 from Mr. Stith, and Mr. Roth probably, regarding the method in which the earnings on these commodities affected by the law of 1905, under the new rates, being based on charges which are less than the Company would have made if it had employed the full Missouri Pacific mileage in all cases, and without remembering the details of the testimony, I do remember that an attempt has been made to justify that method in some cases. What have you to say about that:

For instance, an illustration would be, if I recollect, the charge at the rate of 200 miles from Sedalia to St. Louis. Perhaps my figures are not right—but charging the same rate to St. Louis that would be charged to Hannibal, perhaps, on the Mississippi River, the difference being what it is to Hannibal.

A. That illustrates the principle, but the mileage from Sedalia is only 188 miles whereas the Company in figuring its losses used in some cases 150 miles, and in some cases 175 miles.

Mr. HAGERMAN:

Q. Those figures were given in Mr. Stith's and Mr. Roth's testimony, whatever they were: there is no difference between you as to the figures, how it was done?

A. Not as to the approximate change in the figures. But as to the principle and the necessity of their applying to St. Louis the rate that would apply to the Mississippi River figured on the shortest mileage, I would say that was not necessary, except for commercial reasons, whatever they may have been. The Missouri Pacific was the short line to St. Louis, and we find that in Iowa the roads charge
less across the state from Council Bluffs to various Mississippi
4552 River crossings than the proportional rates amount to that apply on interstate business. And they charge different rates from Council Bluffs to the different Mississippi River crossings.

Mr. LADD:

Q. On state business?

A. Yes sir.

Q. What does that tend to show in reference to Iowa, as to its effect or want of effect on interstate rates? That is traffic passing across the state to the Mississippi River?

A. To my mind it shows that the interstate rates are not necessarily reduced because the state or local rates are less.

Q. Have you anything else to say on that question of short mileage?

A. The only thing that occurs to me is that we worked up those figures for the year 1905 based on the full mileage, and found that the revenue on the commodities affected by the law of 1905 would have been something like $10,000 more, and the loss in that year would have been decreased to that extent.

Mr. HAGERMAN:

Q. Did not either Mr. Roth or Mr. Stith have figures referring to that, showing a loss of $10,000? Was an Exhibit made of that?
A. Yes sir.
The MASTER: You are controverting the commercial or any other necessity for charging less than the full mileage rates?
A. Yes sir.
Mr. HAGERMAN: Mr. Roth says the figures were given but an Exhibit was not made.

Mr. LADD:

Q. Have you the exact figure?
4553 A. $9,658.40 was the exact figure as we worked it out.
Q. For what year?
A. For the year 1905.

Mr. HAGERMAN:

Q. What you mean by that is, that this third line of Exhibit 5-A would be decreased, if your theory is right, from $74,699.68 to what?
A. To $65,041.28.

Mr. LADD:

Q. Please look at Exhibit 5-B introduced by the Complainant, which purports to show the earnings in Missouri from all sources for the year ending December 31, 1905: what did you find to be the percentage of freight earnings to total earnings as shown by that statement?
A. 67.80 per cent not taking into account the rent earnings.

Mr. HAGERMAN:

Q. That is of state?
A. No sir, all freight and services incidental to freight amount to 67.80 per cent of the earnings from all sources except the rent earnings.
Q. What did you exclude in that?
A. Just that last item? I did not attempt to separate that between freight and passenger.
Q. What did you do with the miscellaneous there—after "mail and express"?
A. Our calculation was based on the first two items as compared with the total of $8,357,925.50.
Q. That makes for freight how much?
A. 67.80.
Q. What would it make for passenger; have you that
4554 & 4555 calculation?
A. I haven't that.
Q. It would be the difference?
A. It would be the difference if you include miscellaneous earnings as passenger.

Q. Have you that separate for state and interstate freight, making up that 67.84 per cent?

A. No sir.

Mr. LADD:

Q. What percentage do the freight expenses reported by the Company for the year 1904 bear to the freight earnings, I mean in Missouri?

A. 76.19 per cent.

Q. And what is the percentage for 1905?

A. 74.73 per cent.

Q. Can you give me a statement of the percentage of operating expenses to gross earnings including all earnings and all expenses on the roads in group 8 in which the Missouri Pacific is almost entirely located, for a period of ten or twelve years: What is that taken from, from the reports of the Interstate Commerce Commission?

A. Yes sir.

Q. What are those figures.

A. For the year ending June 30, 1894, 71.99 per cent; 1895, 70.38; 1896, 69.70; 1897, 68.94; 1898, 65.58; 1899, 65.54; 1900, 63.71;

4556 For the year ending June 30, 1901, 61.83 per cent; 1902, 62.01; 1903, 64; 1904, 67.11.

Q. In looking into the details of the operating expenses in Missouri, as reported by the Missouri Pacific Company in Exhibit 5-A, did you find that the expenses of the St. Louis and Kansas City terminals were included?

A. Yes sir.

Q. From your investigation of these matters, and from the information you have derived from your examination, and any knowledge you have obtained, I want you to give your opinion as to the fairness to Missouri of charging to the Missouri operating expenses all the expense of what is called the Kansas City terminals.

A. I do not think all the expenses of the Kansas City terminals should be charged to Missouri.

Q. Go on and give your reasons, in your own way, your judgment about that.

A. The Company has a main line from Kansas City to St. Louis 283 miles long. Then there is what is known as the River line, about 157 miles in length, starting at Jefferson City, and joining the main line near Kansas City, which is in a sense a double track, as I understand it.

They have west of the Missouri state line 2510 miles of track. Not all of the business that comes to the Missouri Pacific at St. Louis would pass through Kansas City in getting to its Western lines, but I am sure a large part of it does. Kansas City,

4557 in other words, is the gateway through which the Missouri Pacific reaches its lines west of Missouri. And as Kansas City is immediately on the line, and as a large part of the tonnage handled in the terminals at Kansas City is tonnage that is passing

through rather than stopping or starting there, it seems to me that the state or states west of Missouri should be charged with a part of that expense. There is so much more mileage west of Missouri than there is in Missouri, and even though there are 972 miles in Missouri, there is a good deal of that which probably would never share in business passing through Kansas City—that is to any great extent. I do not mean, not at all.

Q. Have you said all you care to on that point?

A. As to the reasons, yes.

Q. Assuming that the expense is in round numbers, $800,000 a year, I believe as a matter of fact that it is somewhat less, would you be willing to make an approximate estimate of what you think would be fair, under all the circumstances, to charge to the Missouri Pacific business, in a case of this kind, where we are trying to get at the expense of doing the Missouri business as separate from all the other business of the system?

A. We did make some figures based on some estimates, and those figures showed that only two fifths of the expenses of that terminal should be charged to Missouri.

Q. Then it is your opinion that three fifths of all the terminal expenses ought to be charged outside of Missouri?

A. Yes sir, that was our best judgment.

4558 Q. You have shown some figures here, just a few moments ago, which by implication institute a comparison between the percentage of operating expenses in Missouri, as shown by the company's statement filed here, and the percentage of operating expenses of all the railroads in group 8, to which the Missouri-Pacific belongs: according to that, the percentage is greater in Missouri than the average percentage as shown by the figures for the group: Do you think that including in the Missouri expenses the total expenses of the Kansas City Terminals has anything to do with that?

A. Yes sir, I think that the excess charge to Missouri on account of the Kansas City Terminals, or what we term the excess charge, largely accounts for that large ratio of expenses to earnings.

Mr. HAGERMAN: No more than any other large city. That is, St. Louis standing alone, all that terminal expense standing alone, would lessen the expense as compared to Arkansas, where they have not any large city.

Mr. LADD:

Q. Is there anything else you wish to say about that?

A. Only that three fifths of $800,000 would be about $480,000, and as the freight earnings in Missouri are between five and six million dollars a year, each fifty or fifty-five thousand dollars taken off the expenses would reduce the ratio of expenses to earnings about one per cent.

Mr. HAGERMAN: I do not make any objection, but it does look to me like on the question of expenses it is an unfair comparison to take the whole group and say the expense of that group is so and so,

and then compare Missouri with it, where they have great
4559 cities like Kansas City and St. Louis. Take Illinois, and it would be absolutely unfair to compare Illinois with Arkansas, or Illinois with Iowa. Illinois, with a great city like Chicago in it. It is an unfair thing, and, therefore, not competent as a basis of comparison.

Mr. LADD: That is a matter for argument. Mr. Doddridge loaded down this record with pages from the Interstate Commerce Commission's report.

Mr. HAGERMAN: I make the point that it is not material or competent.

The MASTER: Very much of the testimony in a case of this kind relates to comparisons of various sorts. I think the evidence is competent. But as to how closely the two things compared may be related to each other, and what difference may be shown to exist between them, and thereby affect the force of the testimony, or the weight to be given to it, I do not think would affect its competency at all. Therefore, I overrule the objection.

Mr. LADD:

Q. Mr. Taliaferro, what did the freight expenses as shown by the books of the company, at the Kansas City terminals, for the last six months of 1905, amount to?

A. That figure is shown by Exhibit 11 to be $391,823.83.

Q. Twice that amount would be about $780,000, wouldn't it?

A. Yes sir.

Q. What was the amount credited to Missouri in 1904, on account of switching at the terminals at Kansas City?

A. $42,804.75, net.

Q. What per cent is that of the expenses?

4560 A. About five and one-half per cent of 780,000.

Q. What was the net amount credited to Missouri for 1905?

A. $54,802.01.

Q. And what per cent is that of $780,000?

A. About 7 per cent.

Mr. HAGERMAN: Those earnings are shown by what Exhibits?

Mr. LADD: By Exhibit 32.

Mr. HAGERMAN:

Q. That is to say, these operating expenses you gave are shown by Exhibit 11, and the net earnings of which you spoke, by Exhibit 32?

A. Yes, sir.

Mr. HAGERMAN: I interrupt on a matter of that kind so we can get the Exhibits referred to right at the point where the witness speaks of the different matters.

Mr. LADD: The Exhibits which have been offered on the part of the state here, proceed upon the theory that the closest approach to an accurate result, whether as to cost or as to revenue in the state

business, is the theory known as the "ton mile theory" the cost per ton mile and the revenue per ton mile:

Now, I will ask what is your opinion of that theory as distinguished from any other theory that you have heard of. That is, whether by the adoption and application of it, results can be more accurately reached than in any other way, and why?

A. My idea is that it is the most correct basis and the one that furnishes the best unit for a division of expenses, it is a ton of freight one mile.

4561 Q. And earnings?

A. And the earnings, too.

Q. Why?

A. Because it is a ton of freight one mile. It takes into consideration the length of the haul.

Q. Is that important?

A. The furnishing of the track, the shipment, and the running of the trains, is a large part of the total operating expenses. The distance that the freight had to be handled, it seems to me, is the most important thing to be considered, when you come to think about the cost of it.

A train may consist of two cars or of forty cars: and so a train mile is not as good a unit.

I think the ton mile is the best basis that is known. My idea is it is the best.

Q. How is the ton unit?

A. I think the ton unit fails to take into consideration the length of the haul and the service. I think the cost is the same where the service is the same, and that the only difference in cost is when there is some difference in service. A ton going one hundred miles uses one hundred miles of track. It uses the equipment for one hundred miles; and has to be cared for for one hundred miles. The whole machinery of the railroad is maintained to see that shipment through to its destination, one hundred miles.

With a ton going fifty miles, the track and equipment and train service and all end fifty miles away.

4562 Q. I will ask you whether you think the results reached in a case like this, upon the application of the ton mile theory, are accurate exact?

A. I think so far as the unit is concerned they are exact.

Q. I know that as far as the unit is concerned they are exact: But we can accurately determine the exact amount of net earnings on any particular class of business, by the application of any theory of calculation?

A. I do not think so.

Q. From the study which you have given to the subject and the investigation which you have made into the business of the Wabash Railroad Company and the Missouri Pacific Railway Company, for the last nine months, do you think that the cost of the state business is twice the cost of the interstate business—I mean per ton mile?

A. No, sir.

Q. You say the results which are reached by the application of

the ton mile theory, and different results are reached in different Exhibits here, offered by the state, based on different hypotheses; You think none of these results as to net earnings are accurate. But I will ask you what, in your opinion, based upon your knowledge of the subject gained in the way I have stated, and in other ways—what kind of an estimate you would make as to the extra cost of doing all state business over all interstate business in this state, per ton mile? As applied, of course, particularly to the Missouri Pacific Railroad?

Mr. HAGERMAN: I object to it on the ground that this witness is not qualified to express an opinion on the subject.

The objection is overruled.

4563 A. My idea is that that additional expense cannot possibly exceed fifty per cent of the cost per ton per mile of interstate business. That is the limit. I think it is less.

The MASTER:

Q. That is to say, it would not be more than one and one-half times as much per ton mile?

A. Yes, sir.

Mr. LADD:

Q. That is to say, if one dollar was the unit of cost of interstate business per ton mile, it would not be over one dollar and a half for state business for the same thing?

A. That is it.

Q. What would you say as to the meaning of any calculation based upon the revenue without reference to the service rendered, calculations as to cost, I mean?

A. They would not mean anything to me.

Q. I ask you what degree of accuracy do you believe canbe reached by the application of the ton mile theory to cases of this kind, and what has been reached; You say in your opinion you do you think it would cost over half as much more per ton mile to do the state business than to do the interstate business: Within those limits of fifty per cent per ton mile do you believe that a reliable result can be reached by the application of the ton mile theory?

A. My idea is that applied to the Missouri Pacific situation, where our investigation showed that the state business was hauled just about half as far as the interstate, that our Exhibit 35, which doubled the cost of station, yard, train and engine service, comes as close to showing the actual figures as any that could be made,

4564 to cover this situation. Although I think that in doubling the train and engine service we have more than provided for the maintenance of terminals, which might be heavier on a state shipment than on an interstate shipment. That 35.57 per cent, as shown by Exhibit 35, appeals to me as being the best figure that could be made, as accurately.

Q. Do you think or don't you think, that there is an additional expense connected with the operation of what are called "way" or local trains as compared with what are called "through trains?"

A. Yes, sir.

Q. In your opinion, is it fair to charge in the case of the Missouri Pacific Railway all of that extra expense to the purely state business?

A. No, sir.

Q. Why not?

A. Because we know that both state and interstate business are handled on the local trains. The exhibits relating to local trains, that were put in, showed more interstate business than state business.

Q. Exhibits put in by whom?

A. By the Missouri Pacific people.

Q. Go on.

A. And because the interstate business as a whole is about 3 times the state business, that showing of local trains was what we would have expected it to be, generally speaking.

Our working sheets for October, 1905, showed that every station in the state that has an agent, and a good many of them
4565 that have not, that every one of those stations handled both state and interstate business. And those stations are served by the local trains, those interior stations.

Q. Is it fair, in your judgment, to treat the lesser expense of the through trains as applicable wholly to the interstate business?

A. No, sir.

Q. Why?

A. Because a great deal of the state business is handled on the through trains.

4566 Cross-examination.

By Mr. HAGERMAN:

Q. What is your age?

A. Thirty-four.

Q. And the extent of your actual railroad operating experience?

A. I was in railroad work altogether about 16 years.

Q. In what kind of a position?

A. My first work was in the railroad shops in Roanoke, Virginia.

Q. In what position?

A. I was a mere boy, and worked around the car shops. I went into the Master Mechanic's office, and then——

Q. What position did you hold in the Master Mechanic's office?

A. Messenger. I was about fifteen. Then I went to the Superintendent's office.

Q. When you got into the Superintendent's office, what position did you hold?

A. Messenger boy; later, secretary; and then, acting chief clerk.

Q. What was your age then?

A. 17, I think.

Q. When you left there?

A. When I left there I was nineteen.

Q. You were there two years?

A. Yes, sir.

4567 Q. What was your next railroad experience?

A. I went as private secretary to the gentleman who was in charge of the traffic of the Norfolk & Western Railroad.

Q. How long were you with him?

A. I was with him about a year and a half, and then went to Philadelphia with him when he went with the Reading.

Q. What position did you hold then?

A. Secretary and chief clerk.

Q. For how long?

A. He was there only a few months. I remained for a year with the Reading Road, and then went back to the Norfolk & Western.

Q. To the same position?

A. I went back as secretary of the General Freight Agent; and then in a short time took a desk as rate clerk.

Q. Were you a stenographer?

A. Yes, sir.

Q. And stenography was part of your duty during that period?

A. Yes, sir, up to the time I took the rate desk.

Q. How long were you rate clerk?

A. I think about a year and a half with the Norfolk & Western, or possibly two years.

Q. Then next?

A. I went to Harrisonburg, Va., with the Chesapeake & Western, as general clerk.

Q. In what department?

A. It was a small road. I did everything there.

4568 Q. How long were you there?

A. About four years altogether, about 3 years of which time I was Superintendent of the road.

Q. How long a road was that?

A. 27 miles.

Q. Anything more in the way of railroad experience—Was that a Haskins & Sells road?

A. They were both interested in it during part of the time I was in charge of it.

Q. Was it in course of construction.

A. It had been completed when I went to it.

Q. What was your next experience?

A. I went to Southwest Virginia as general Superintendent of two little railroads.

Q. About how long were they?

A. About thirty-five miles altogether, including the logging roads.

Q. Were those Haskins & Sells roads?

A. They had nothing whatever to do with them.

Q. Were they logging roads?

A. They were built principally to develop some timber properties.

Q. They were what we call logging roads?

A. There was good country behind them.

Q. But they were not doing much commercial business?

A. Not a great deal.

Q. What other railroad experience have you had?

A. That is all.

4569 Q. How long have you been with Haskins & Sells?

A. I went back to them from a position I had in Texas, about a year ago.

Q. About how much of your time has been devoted to this rate case? Practically all your time since last June?

A. Yes, sir.

Q. You made some comparison of Exhibit 5-*b*, or Exhibit 5-*c*, with Group 8 of the Interstate Commerce Commission, didn't you?

A. No, sir.

Q. The calculations from that you compared by getting the freight percentage, the cost of moving the freight? Is that right?

A. I first gave you the percentage of the freight expenses to freight earnings in Missouri.

Q. Where, outside of Illinois and Missouri, in Group Eight, is there any state that has great terminals like Kansas City and St. Louis?

A. I do not know of any.

Q. That is, Iloinois is the only state that would compare with Missouri.?

A. In terminal expense, yes, sir.

Q. Does your idea concur with that expressed by Mr. Ludlam, or with the ideal way of dealing with the terminal expense, if railroads would do that, which would be to distribute the terminal

4570 expense throughout the system, and not limit it to the particular state in which the terminal was located?

A. I think some method could be devised which would be fair. It has not been done.

Q. The method has not yet been devised?

A. Not that I know of.

Q. But you think that would be the thing, if a system could be ascertained and devised and it would operate more fairly, in your judgment, than the way it is now done? Is that your opinion?

A. It seems so to me, yes sir.

Q. Would you think it would be fair, for instance, to make this comparison of percentages as between a state like Missouri, and Arkansas, while in Arkansas they have no large terminals, and in Missouri they have great cities like St. Louis and Kansas City?

A. Yes sir, for this reason: that from the time I went into the railroad service, twenty years ago, I heard that the freight business made the money. And those percentages from Group 8 represent the ratio of expenses to the earnings on all business, including passenger business.

Q. Was your statement given upon the basis of passenger and freight?

A. No sir, I said freight, plainly. It was freight expenses based on earnings from Exhibit 5-*b*, and percentages of all expenses to all earnings in Group 8.

Q. Let me get at that, because if I understand you right
4571 I do not want to lose any more time in examining you about it. In ascertaining those percentages you took freight alone, according to exhibit 5-*a*?

A. Yes sir.

Q. And you got your percentage of cost in handling that business in accordance with exhibit 5*a*?

A. Yes sir.

Q. And then you compared with that exhibit 5*a* the cost of handling all the business, passenger and freight, with that shown in group eight of the Interstate Commerce Commission?

A. Yes sir.

Q. In dealing with this Kansas City terminal situation, you ascertained that all the business to and from Kansas City, Missouri which went on the north and north-west line became a part and parcel practically of the Kansas or outside of the State of Missouri business?

A. Yes sir.

Q. The business destined to and from Kansas City, Missouri, north and on the central branch, west from Atchison, does not come into the Missouri calculation at all?

A. There is no revenue credited to Missouri on that business except on such as moves to and from Grand Avenue station, Kansas City.

Q. And that is a very insignificant amount?

A. Yes sir.

Q. Did you attempt, in equalizing this thing and arriving at your three-fifths and two-fifths of the distribution of expense, undertake to give Missouri the benefit of any earnings from the
4572 property and that class of business, or did you just let that portion of the situation stand, in the way the company has been keeping its accounts?

A. We let it stand in the way they kept the accounts.

Q. You have not changed anything about that?

A. No sir.

Q. You have figured that in the neighborhood of $10,000, whatever the exact figures were, represented the shipments of live-stock which in exhibit 19 you treated as interstate whereas the company has treated it as State business?

A. Yes sir.

Q. And that is the only difference in the method of your getting up the October statement?

A. Yes sir.

The MASTER:

Q. That $10,000 was for the month of October?

A. Yes sir.

Mr. HAGERMAN: Yes, as I stated, in exhibit 19.

Q. Have you made any calculation as to the trackage in the terminals in Kansas and Missouri, respectively?

A. I know what it amounts to.

Q. Which one?

A. There was an exhibit put in by the company which showed that trackage.

Q. About thirty per cent in Kansas and about seventy per cent in Missouri, wasn't it?

A. Twenty-six, practically twenty-seven per cent in Kansas.

Q. And the balance in Missouri?

A. Yes sir.

4573 Q. Have you done any calculating or figuring upon the value of the properties in Kansas and Missouri, or a division in accordance with value, there at Kansas City?

A. No sir.

Q. You do not allow either of those elements to enter into your estimate of three-fifths and two-fifths, do you?

A. No sir.

Q. You disregard entirely the percentage of tracks: You disregard the percentage as to value as between the two States?

A. As to value, I never thought of it. As to trackage, that was my first idea, that the trackage basis might be a starting point, at least. But so far as I was concerned, I abandoned that.

Q. If the value of that property in Missouri was say 85 per cent of the whole, as against 15 per cent, the actual value in money of the property in Kansas, would that make any difference in your judgment?

A. No sir.

Q. That would cut no figure whatsoever?

A. No sir. I am thinking of it purely as an operating proposition.

Q. I want to get your theories, what you do take into consideration and what you do not take into consideration:

If Kansas City, Missouri, is three times as large as Kansas City, Kansas, does that fact cut any figure in your mind?

A. I have in mind that that is probably so; but even so, the business to and from the north-west, I mean not only the business to and from the lines of the Missouri Pacific north of Kansas

4574 City, but the whole territory reached by those lines, is done to and from Kansas City, Missouri, as well as Kansas City, Kansas, but that no revenue is allowed to Missouri on that business.

Q. You understand what the witnesses said, that this Kansas City terminal situation, whether right or wrong, has been fixed on a sort of arbitrary basis, and a certain class of business was treated as outside of the state, and the expenses all in the state and the earnings credited to Missouri?

A. Yes sir, and for that purpose I do not see anything wrong with it.

Q. And if it were not for this lawsuit, that would not be a wrong way to deal with the situation, with the properties physically situated as they are?

A. I can see how that would be a fair method.

Q. And from a railroad standpoint, you would not improve on that. If the state line were not there?

A. If the state line were not there, the situation would not arise at all.

Q. If this question of dividing between state and interstate was not involved, there would be no reason for criticizing it?

A. That is the only occasion we have for criticizing it.

Q. Is it a fact, from a railroad standpoint, that the setting aside of a great terminal and calling it a terminal division, is good railroading?

4575 A. I cannot see any objection to that.

Q. Kansas City, Missouri, is at least three times as large as Kansas City, Kansas, isn't it?

A. I do not know.

Q. You said you assumed it was?

A. I am taking your word for it.

Q. Don't you think it is?

A. I think it must be.

Q. Taking a running jump at it, what would you say was the value of the Missouri part as against the Kansas part?

The MASTER:

Q. The value of what?

Mr. HAGERMAN: The value of the portion of the terminals in Missouri as against what it is in Kansas.

A. I have not any idea.

Q. On the question of business that is done in Kansas City, Missouri, and Kansas City, Kansas, have you any idea how much larger and greater the business of the community is in Missouri than it is in Kansas?

A. No sir, but I understand there are some very large interests on the Kansas side.

Q. There are large interests on both sides?

A. But out of proportion to the relative population. I understand the interests on the Kansas side would be larger in proportion to the population than those on the Missouri side.

4576 Q. Have you any idea about the figures, how that would come out?

A. No sir.

Q. And that is not an element that has entered into your calculations at all?

A. No sir.

Q. Have you any idea or figures about the amount of wheelage that is done in Missouri, as compared with what is done in Kansas, within the terminal limits?

A. No sir.

Q. And that did not enter into your calculations?

A. No sir.

Q. And that should not, in your judgment, Mr. Taliaferro, affect the situation, as to how the expense should be divided?

A. I think everything about it should be taken into consideration. We took into consideration just what information we had, and that was as far as we could go.

Q. What you mean to say is, that all these elements of which I speak, ought really to be taken into consideration?

A. I do not say that the value should.

4577 Q. You think the value should not?

A. I do not think that has anything to do with it, as an operating proposition.

Q. I should imagine, and presume you will agree with me about that, that any property on earth that compels an annual expenditure of $800,000, must be exceedingly valuable: wouldn't you say that?

A. Yes sir.

Q. Would you have any idea of the value of just that terminal property?

A. No sir.

Q. And no idea of the value as between the two states?

A. No sir.

Q. In your judgment, the question of value should not cut any figure in the division of that expense?

A. Not in the division of the expense for doing the business.

The MASTER:

Q. What is the relative proportion of trackage?

Mr. HAGERMAN: 27 as against 73.

Q. That is right, isn't it, Mr. Taliaferro?

A. Yes sir.

Q. What is the difference in the character of the improvements in the two states, the buildings, etc., or the work that has been done in making improvements?

A. I am not familiar with the terminals.

Q. That is not something you have taken into consideration?

4578 A. No sir, that would all come under the head of "Value of the property".

Q. If you were doing the thing originally, Mr. Taliaferro, I presume about the only thing that could be done with that situation, if you are trying to get it exact, you would treat all the business that went on those north roads, that started from Missouri, as part of the Missouri business, wouldn't you? Gvie it some proportion of it?

A. No sir.

Q. You would not?

A. No sir, because I understand the state line is the large shipping and receiving point.

Q. The state line station: Would you, as an original proposition, on any of this stuff that goes from Kansas City, Mo., into Kansas, treat any of that as interstate traffic, and give Missouri any benefit of it?

A. I would not do it, for the principal reason that the mile or mile and a half, or whatever may be allowed to Missouri, could not possibly compensate it for the service.

Q. So that every shipment that goes out of that state line yard into Kansas, you think ought to be treated as a Kansas shipment?

A. I think it is all right to treat it that way.

Q. Then what is there wrong about just the converse of that, that every shipment moved from there out into Missouri should be treated as a Missouri shipment?

A. From where?

Q. From the state line yards. From the stock yards, for instance.

4579 A. So far as crediting revenue is concerned, I do not see any difference in the principle.

Q. That is, it is a principle which ought to work both ways, and the principle is exactly the same principle.

A. As broad a principle, and not relating to any particular business.

Q. Let me get exactly your reason for saying you would charge three-fifths of all that terminal expense outside of Missouri: We have seen some of the things you have not let enter into it: Now what does enter into it, and what controls you? There must be some way by which you arrive at the three-fifths?

A. As I said before, we had to start with estimates. We estimated that two-thirds of all the tonnage which got into the Kansas City terminals, or any part of them, was business passing through, either destined to or starting from Kansas City proper.

Q. Let us put a pin right there. Two-thirds, as a mere estimate, was stuff passing through Kansas City, going one way or the other?

A. Yes, sir.

Q. How much of that two-thirds did you estimate branches off before it ever got over the state line, and went on the line running south, and out to Colorado and the west?

A. We did not separate it.

Q. You treated it all as if it crossed the state line?

A. No, sir. It used the terminals.

Q. So much of that traffic as got into a portion of the

4580 yards, the East Yards—you know where they are from the map?

A. Yes sir.

Q. So much as got in there, and never got down to the state line at all, was a terminal expense wholly in the state of Missouri?

A. The expense was wholly in Missouri, but the earnings, even on business going out by Topeka or the Pueblo line, was practically all credited to lines west of Missouri.

Q. I understand that: But Missouri would not get any share of the expense out from Topeka or Pueblo or any other state?

A. That is very true.

The MASTER:

Q. How does the business on the North Branch compare to that on the South, going out of the state?

Mr. HAGERMAN: That is the very thing I am trying to ask, but my point is, that so far as stuff going into or out of Kansas City, that goes to the East Bottoms yards and never touches the State Line yard, it is local as much as the expense at Jefferson City, or any other place wholly in the state of Missouri.

Q. That is true, isn't it, Mr. Taliaferro?

A. The expense would undoubtedly be incurred in Missouri.

Q. Therefore, as to that portion of the expense, the situation is that you are applying to a portion of this Kansas City terminal situation what you would say was your ideal rule about apportioning terminal expenses throughout the system: aren't you?

A. But Kansas City is on the line.

4581 Q. That is what you are doing as to that portion of it?

A. We are taking into consideration all the tonnage that passes through, whether it went northwest or on some other line.

Q. You estimated that two-thirds of it was stuff going through Kansas City?

A. Yes, sir.

Q. What proportion did you estimate was stuff that went up and used the state line station, or any terminals in Kansas?

A. We never made any such estimate.

Q. And you have no idea what proportion that business is?

A. No, sir.

Q. You have not the slightest conception of what it is?

A. I could guess.

Q. Is you were advised that fifteen percent would not represent the business that went out across the state line or came in across the state line from the North, would that make any difference in your estimate of two-thrids and three-fifths?

A. Would not represent it?

Q. If you were advised that of your two-thirds figure, not to exceed fifteen percent, or twenty percent, or twenty-five percent, passed out, or came in, over the line, that crossed the state line at the State line yard, would that cut any figure, in your mind, in the estimate of two-fifths and three-fifths?

A. No, sir, for the reason I have already stated, that on the business using the 27 miles going out on the Pueblo line, we

4582 consider there is so little of that line in Missouri, and so little of the revenue divided on a road mileage basis credited to Missouri, that Missouri should not be burdened with all that terminal expense, whether the business gets to the State Line yard or not.

Q. According to that principle, if the Burlington Road runs trains to Chicago, starting from St. Louis, and crossing the river at Alton, you would want to distribute the St. Louis terminal expense out through Illinois, wouldn't you? That is where your logic would leave you?

A. The St. Louis terminal is undoubtedly very expensive, and is maintained for the business of the whole system, and is a great burden to Missouri; there is no doubt about that.

Q. I can see how your rule might work if all the railroads would live up to it, and all the states respected it, so that every terminal expense, wherever located, was distributed throughout the system; and then it would be a question of give and take as between the different states.

But you apply a rule by which you are going to take away from

Missouri certain terminal expenses, and send them out to another state, where nothing comes in place of it, although there are local terminal expenses there, aren't you?

A. No sir, all of the earnings on the business going to the northwest and coming from that direction are credited to other states; and practically all the earnings on other business going down on the Pueblo line.

Q. Whatever mileage is in Missouri, Missouri gets its proportion?

A. On 27 miles.

4583 Q. There is one reason you have given; that two-thirds of the business passes through. Now, what other reason have you for saying that three-fifths of this ought to be charged outside of Missouri?

A. Just for the purposes of this estimate, we figured that the tonnage that passed through would cost one-third as much per ton as the business which stopped at or started from Kansas City proper.

Q. Upon what did you base that judgment?

That it cost one-third as much to take care of the through traffic as to take care of the local traffic?

A. We used our own judgment, to a large extent, and, probably, I think Mr. Bethard's testimony influenced me. I think he made an estimate on the cost.

Q. It is a poor rule that does not work both ways. Here is the difference in the use of a terminal by simply passing through the terminal on a through trip, and using it as either an originating or terminating terminal; the cost, is 3 times as much when you use it as a terminating or originating terminal, as when you use it simply for passing through?

A. If the business is passing through in control of a particular road. If that road takes it in and takes it out, it may be able to make up its trains perhaps two or three hundred miles back, with a view of taking it through.

Q. I assume you would not use a figure to be used in one case, and not be applied in the other case: you do not mean that?

A. We had in mind the business that the Company itself

4584 was taking through.

Q. What I want to know is, whether it is a fair result of your testimony to say this: That so far as the Missouri Pacific Railway is concerned, the terminal expense is three times as great where it is an originating or terminating expense, as it is where it is a mere passing through terminal expense.

A. If you confine that to business that the company itself is taking through that terminal, I think that might be a fair relation between the two.

Q. That is the proposition you assume, that it costs three times as much to do that one-third of the business that you estimated either terminated or originated at Kansas City?

A. Yes, sir.

Q. And the two-thirds of the business which passes through, was a mere estimate based on no figures whatsoever; is that right?

A. Yes, sir.

Q. Then what was the next element, in addition to these two, that you took into consideration?

A. Then we took into consideration the mileage of the Missouri Pacific Railway in Missouri, and west of the Missouri line, in order to divide the expense of the two-thirds.

Q. Let me see what your example was: you separate that 100 percent of expense?

A. Yes, sir.

Q. And how did you divide that as between the one-third and the two-thirds; one-half to each?

4585 A. That would be the effect of making one-third three times as much.

Q. And then, after you got half of the local business, and half of the through business, how did you apply the mileage?

A. We divided one-half on the basis of 25 percent to Missouri and 75 percent to the lines west.

Q. And that is on the mileage of the Missouri Pacific, inside and outside of Missouri?

A. Using that as the basis.

Q. And what did you do with the other fifty percent?

A. We divided that between Missouri and the other states, half and half.

Q. That is how you got your figures?

A. Yes, sir.

Q. Did you take into consideration that a great portion of the mileage of the Missouri Pacific Railway was out in Kansas and on the barren plains?

A. I know that is so, but on any business passing through Kansas would get just as much as Missouri, because it is divided on a mileage basis.

Q. That is the way you reached your conclusion about the terminal expenses, and you have given us now all the reasons you have for that?

A. Yes, sir.

Q. Passing to the next subject: taking it as a whole, your idea is, that the extra cost per ton mile of doing state over interstate business, could not exceed fifty percent: is that right?

4586 A. Yes, sir.

Q. And I assume, when you say your idea is that, you mean to imply that is a fair estimate, taking everything into consideration?

A. Yes, sir, I think that is full high.

Q. That is to say, given the entire expense in the state, it costs fifty per cent more, on the ton mile basis, to do the state business than to do the interstate business, as a whole?

A. Per ton per mile.

Q. Are you willing to give any kind of an estimate on this broad proposition: Leave to the Court the question of determining upon what basis you must ascertain it, and tell me, whatever the cost is of doing the interstate business, how much more it costs to do the state business?

A. I do not know of but one way by which to make the figures.

Q. What is that?

A. On the ton mile basis.

Q. Then you would not listen to any suggestion, or undertake to give any opinion, based upon anything except the ton mile basis.

A. No, sir. I would like to say this, Mr. Hagerman, if I may. My first impressions of the ton mile were gotten many years ago, when I sat opposite the chief traffic officer of a railroad company, and saw him figure on that basis.

When I got into these cases, and saw them figuring on the revenue basis, I thought immediately it was wrong, because I know
4587 the state business must have been done at a much higher rate per ton per mile than the interstate business. I have had that in mind from the beginning, and the more I have thought about it, and the more I have listened to the testimony, and found that the railroads out here were run just as I supposed they were, the more I have become convinced that the ton mile is the best basis.

Q. I am assuming you would not swear to it, unless you were convinced that it is so.

A. I am only telling you why I think it is so.

Q. That being so, I am simply asking you whether you would be willing to venture an opinion, that whatever that cost is, and however it is ascertained, how much extra would it be to do the state business?

A. Only on one basis.

Q. You would listen to nothing else, or consider nothing else.

A. Nothing else would mean anything to me.

Q. You would not express any opinion on any other basis?

A. No, sir.

Q. And every opinion you would express would be limited to the ton mile basis?

A. Yes, sir.

Q. That is a frank way to put it, and there is no misunderstanding about what you mean.

You did state to Mr. Ladd that there was no way by which it could be accurately determined?

4588 A. I meant exactly.

Q. This extra cost?

A. Yes, sir. None that I know of.

Q. In order to fairly compare, the first of all things you would have to have, would be a comparison of the character of the shipments, wouldn't you?

A. I don't know what you mean by that.

Q. The class of freight. Wheat ought to be compared with wheat, and furniture with furniture, ought it not?

A. Nobody knows what it costs to do any particular kind of business, and nobody pretends to *to* know.

Q. But that is the way to make a comparison, if you are going to be accurate?

A. I don't think so. I think when you confine this business to state lines, the best information we could get is what we already

have. I do not mean to say we have it all, but I think we have the best figures: and that is, the relation of state ton miles to total ton miles, and the average haul of the two kinds of business.

Q. And that does not take into consideration at all the capacity of the car, or the amount of waste tonnage?

A. Well, I know the cars are used interchangeably, and we are sure that every facility that is maintained by the Company is maintained for both kinds of business; it is all hauled over the same tracks, and by the same engines.

Q. That is evading answering my question?

A. I don't think so.

Q. You do not allow for any waste tonnage in this comparison?

A. I do not allow that the interstate carload is loaded
4589–4599 any more heavily than the state, because I think it is loaded just as heavily.

Q. On the ton mile basis you cannot make any comparison for waste space or waste tonnage?

A. I don't know what you mean by "waste tonnage." If you mean in connection with the carload business?

Q. I mean in connection with all of the business. The state business that is hauled in any month may or may not occupy as much of the tonnage capacity of the interstate; or, I will concede you, for the purposes of the question, it may be less. But the point I make is, there can be no accurate comparison unless you have taken into consideration the waste tonnage?

A. Railroads are operated more and more today on the ton mile basis, Mr. Hagerman; and that means getting all you possibly can into a train, and doing all the business you can with one car and one engine. And I do not think there is any discrimination in favor of state shippers when it comes to loading cars. The less than carload business is handled in the same cars, and I cannot see how you——

Q. Will you give me the benefit of an answer to my question, whether the waste space is in favor of state or interstate, there could not be any comparison upon a ton mile basis, by which you would take into consideration the waste tonnage, because it is an impossibility to make the comparison?

A. The ton mile basis takes into consideration the tonnage and the haul.

4600 Q. Does it take into consideration the waste tonnage?

A. It does just as much in one case as it does in the other; that is all I can say about it.

Q. That is all you can say about it?

A. Yes, sir, just as much in the case of state as in the case of interstate.

At this point recess was taken until two o'clock P. M.

After recess on Friday, March 8th, 1907, the following proceedings were had:

Cross-examination of A. P. TALIAFERRO, continued.

By Mr. HAGERMAN:

Q. Mr. Taliaferro, what was the assessment by the state Record on the Missouri Pacific Railway in Missouri for the year 1905?

A. As shown by the Journal of the Board of Equalization, the figure was $12,873,704.90.

Q. And what was it for the year 1906?

A. $13,100,052.66.

Q. Upon what basis is the assessment made by the state Board, one-third of the valuation, in the judgment of the Board?

A. I don't know.

NOTE.—It is agreed between the parties that the basis of the assessment is on one-third of the valuation of the property, in the judgment of the Board.

4601 Q. Turn to page 5 of Exhibit 5*a* for a moment. You will observe on that page the expenses are itemized by certain classifications: Take, for instance, "Maintenance of Way and Structures:" Does any Exhibit show of what items that consists? What makes up "Maintenance of Way and Structures?" Do Forms 1940 or 1941 show that?

A. No, sir.

Mr. LADD: I will offer in evidence statement 22 from page 47 of the 26th Annual Report of the President to the Stockholders of the Missouri Pacific Railway System, for the year ending June 30th, 1906, as Defendant's Exhibit No. 41.

Defendant's Exhibit No. 41 is in the words and figures following towit:

4602 Q. Your theory about the ton mile basis is bottomed on the fact of the length of the haul, isn't it? In one case the haul is longer than the other?

A. A longer haul produces more ton miles.

Q. And in reality, that is the substance of your judgment about the ton mile being the proper basis, because you get the benefit then of the increased haul, and measure in accordance with the haul?

A. I do not know that I should exactly agree with that, if I understand your question. I think the relation of the haul of state to interstate freight—or, rather, the relation of the haul of state to interstate freight—is what I would make my estimate on.

Q. I understand Mr. Ludlam in his testimony to put it more sweepingly than that, that he considered the extra haul to be the whole thing, and I wanted to know if you agreed with that view?

A. I would not mean to say that a certain haul would cost a certain figure per ton per mile, and that a longer haul would be less, and a shorter haul more, I would not do that. All I say is, that when the same track, the same cars, the same engines, and the same facilities of every character are being used to do both kinds of business, my idea is that one could not cost so much more than the other.

Q. The reason you get the difference between the tons and the percentage of tons, as compared with the ton miles, and the percentage of ton miles, is the difference in the haul, isn't it?

4603 A. The longer average haul of interstate traffic produces a larger percentage of interstate ton miles than of tons of revenue.

Q. To make my meaning plain, taking Exhibit 19, in round figures, 75 per cent of the tonnage was interstate, and 25 per cent was state freight?

A. Yes, sir.

Q. But when you come to the ton miles, in round figures, according to that Exhibit, 86 per cent was interstate, and 14 per cent state: Now, that difference comes from the difference in the haul, doesn't it?

A. Yes, sir.

Q. How did the terminal expenses, as a whole, on the St. Louis terminal division, compare with those at Kansas City?

A. I have not the figures here, but my recollection of those we have is that the Missouri Pacific's proportion of the St. Louis terminal expense is somewhat higher than the whole cost of the Kansas City terminals.

Q. What do you mean by "The Missouri Pacific's proportion:" as between it and the Iron Mountain?

A. Yes, sir.

Q. How did you arrive at the proportion?

A. That is divided on a mileage basis. There are 81 miles in these terminals, of which 46/81 miles are charged to the Missouri Pacific, and 35/81 to the Iron Mountain.

Q. In making that estimate, did you divide it according to the mileage of the system, or the mileage in Missouri?

A. We followed the Company's plan on that. We divided

4604 it according to the mileage in the terminals.

Q. The Company divides it on that basis, as between those two roads?

A. Yes sir.

Q. And the Missouri Pacific's proportion of that, 46 miles, is in excess of the entire expense in the Kansas City division?

A. I think so. I have not looked at the figures for some time.

Q. Have you any idea about the values, as to how they compare?

A. No sir.

Q. Let me understand, is the St. Louis terminal division divided on the basis of 46 and 35, or is that your estimate of the percentage of mileage?

A. I thought I was entirely clear on that. My recollection is, we have the figures in our working papers, and that it was that the Company did divide the expense of those terminals on the basis of 46 miles for the Missouri Pacific, and 35 miles for the Iron Mountain.

Q. That is your recollection of it?

A. Yes sir, but I have not had occasion to look at it for some time, and may be mistaken.

Q. Why did you say that by the mileage basis you did not mean

on the basis of the mileage of the Iron Mountain and Missouri Pacific?

A. I thought you meant the whole system, the mileage of the two roads.

4605 Q. Did you mean that, or that it was some arbitrary division by which practically 46/81 went to the Missouri Pacific, and 35/81 to the Iron Mountain, in a division between the companies?

A. I supposed it was divided arbitrarily on about so much track used by the two companies.

Q. You said something about the mileage, and probably I confused myself in assuming they had arrived at some conclusion on the basis of a division between the two railroads.

A. I did not mean to say that.

Q. You mean that your recollection is that, however they arrived at it, whether arbitrarily or otherwise, 46/81 is treated as Missouri Pacific, and 35/81 as Iron Mountain?

A. Yes sir.

Q. What I wanted to get, so as to have it all on one paper, was how this thing figures out per mile of road, as to certain items: There are 973 miles of the Missouri Pacific Railway in Missouri, but that includes 34 miles that belong to other roads, over which they just have trackage arrangements?

A. Yes sir.

Q. 939 represents the number of miles of road owned by the Missouri Pacific Railway Company in Missouri?

A. Yes sir.

Q. What I wanted was a tabulation showing, first what that amounts to (on one sheet) upon these mortgage bonds per mile, to which the interest charged in one of these exhibits relates. The capital stock per mile, I suppose the quick way to get that

4606 would be to simply take it upon the whole system. The value upon the State Board's assessment, upon the basis of its being one-third of the value—that is, the value being three times what the assessed value was. The value per mile in Missouri. The value per mile, of freight and passenger earnings, separately. Also the state freight and passenger separately. So I would have those figures on one sheet.

Have you checked those up at all?

A. No sir.

Q. I have it here, and assume it is right. What I want to have you do is to put that in as an exhibit, and if there is anything wrong in the figures, we will check it up later and correct any errors.

I suppose, upon the division of earnings, you had better use the divisor of 973, because you used that many miles of road in actually earning that amount?

A. Yes sir.

Q. That would be the proper figure, instead of using 939?

A. I think so. On the full mileage operated, as to earnings.

(NOTE.—Messrs. Taliaferro and Johnson checked up the paper above referred to, which is offered in evidence later on as Exhibit 46.)

4607 Mr. LADD: I want to offer in evidence page 48 of the 26th Annual Report of the President to the Directors and Stockholders of the Missouri Pacific Railway System, for the year ending June 30, 1906, as Defendant's Exhibit No. 42.

Defendant's Exhibit No. 42 is in the words and figures following, to-wit:

4608 Mr. HAGERMAN: In connection with page 48, just offered in evidence as Defendant's Exhibit No. 42, I offer in evidence page 49 from the same report, as Complainant's Exhibit No. 43.

Complainant's Exhibit No. 43 is in the words and figures following, to-wit:

4609 Mr. HAGERMAN: I also offer in evidence page 50 from the same report, as Complainant's Exhibit No. 44.

Complainant's Exhibit No. 44 is in the words and figures following, to-wit:

4610 Mr. LADD: I want to offer in evidence page 27 of the 26th Annual Report of the President to the Directors and Stockholders of the Missouri Pacific Railway Company for the year ending June 30, 1906, as Defendant's Exhibit No. 45.

Defendant's Exhibit 45 is in words and figures following, to-wit:

4611 Mr. LADD: An error was discovered the other day in Exhibit 36, and a new Exhibit was to be prepared in place of it, in which that error would be corrected all the way through. I will offer in evidence that paper as Exhibit 36*a*.

The MASTER: As I understand it, that is to supply the place of Exhibit 36?

Mr. LADD: Yes, sir.

Defendant's Exhibit No. 36*a* is in the words and figures following, to-wit:

4612 Mr. LADD: That same error ran through into Exhibit 37; and that corrected statement we offer in evidence as Defendant's Exhibit No. 37*a*.

Defendant's Exhibit No. 37*a* is in words and figures following, to-wit:

4613 Mr. LADD: To correct the results of that same error, which was carried into Exhibit 38, we substitute a paper which will be marked Defendant's Exhibit No. 38*b*.

Defendant's Exhibit No. 38*b* is in the words and figures following, to-wit:

4614 Mr. HAGERMAN: I will offer in evidence a statement, as Complainant's Exhibit No. 46.

Complainant's Exhibit No. 46 is in the words and figures following, to-wit:

4615 Mr. HAGERMAN: Q. Mr. Taliaferro, have you now before you a tabulation, which we will call Exhibit 46, making certain tabulation in accordance with the mileage in Missouri?

A. Yes, sir.

Q. The first column headed "Miles of Road in Missouri," is 939; that represents the number of miles of road owned by the company?

A. As shown by the annual reports.

Q. And 973 would be the total, inclusive of the miles of road where they have running arrangements over other tracks?

A. Yes, sir, the total operating lines.

Q. So the divisor used on this is 973, as applied to earnings, and 939 as applied to the other figures?

A. Yes, sir.

Q. The next column, No. 2, "Mortgage Bonds per Mile in Missouri" that is a calculation reducing to per mile in Missouri the tabulation of the bonded indebtedness as shown by Exhibit 39?

A. Yes, sir. That is, the outstanding bonds shown by Exhibit 39 total # 29,992,500: deducting 35 per cent of $14,904,000 the amount of the consolidated mortgage, to cover 35 per cent of mileage which is said to lie outside of Missouri, leaves $24,776,100.

Q. Which is, in Exhibit 39, allotted to Missouri?

A. Yes, sir. I don't know wheter the mileage is correct or not. For the purpose of this statement, I am assuming it is. Dividing
that 424,776,100 by 939, gives an average per mile of
4616 $26,389.00.

Q. Assuming that Exhibit 39 was properly apportioned, so as to represent the bonded indebtedness upon which this interest charge is made to Missouri, in the interest as we have it in our accounts, 1/939 of it is this figure you have set out in column two?

A. Yes, sir.

Q. Column 3 is calculated, simply taking the capital stock as shown by the annual report, per mile?

A. Yes, sir, and also dividing it by the mileage shown by that same annual report, of the entire system.

Q. Inside and outside of the state?

A. Yes, sir, 3.056 which is said to be their own mileage.

Q. Because it is not divided, by the annual report?

A. No, sir.

Q. The next column, four, "Value upon State Board Assessment:" that is upon the valuation which they agreed here the State Board valued it, one-third, and you have used the multiple of three, and divided it into the number of miles.

Mr. LADD: Mr. Taliaferro did not use any multiple.

Mr. HAGERMAN: Q. Well, the multiple used in the statement. The $41,839.38 is ascertained in that way, and that is what it would be per mile of 939 miles in Missouri, wouldn't it?

A. Yes, sir, that is ascertained by dividing the assessed value in 1906 by the 939 miles.

The MASTER: Q. The assessed value multiplied by three?

A. Yes, sir, the assessed value per mile multiplied by three?

4617 Mr. HAGERMAN:

Q. When you come to deal with the earnings, what is the sum that is divided? Where is that sum that you divide by 973?

A. These figures were taken from Exhibit 5-*a*, put in by the Company, which included all earnings, including certain miscellaneous

earnings which were not either passenger or freight, I was told, and the rent earnings.

Q. And there is used in that case as a divisor 973, which represents the total mileage operated, inclusive of that covered by the running arrangement?

A. Yes, sir.

Q. If you were ascertaining the earnings per mile, you would say that was the right one to use rather than the 939, which represents the number of miles of road owned?

A. Yes, sir.

Q. Is there any other observation you want to make about this Exhibit 46, to be fair with yourself, as to its fairly representing the calculation, and tabulating the thing per mile? Column 4, the "Value upon State Board Assessment," which is set out, and the column itself is subdivided so as to show what it is per mile, and then what the total amount is in the State?

A. Yes, sir, the total assessed value, multiplied by three.

Q. That is what $39,300,157.98 means?

A. Yes, sir.

Q. Now, have you anything to say further?

A. Yes, sir, I should like to say this: We have no means
4618 of knowing, of course, what the bonds and stocks were used for, whether for the purchase and building of roads, or the purchase of other securities.

The securities carried in the balance sheet in the Annual Report, I remember as $92,000,000 as against a cost of road of $72,000,000—so we don't know a thing about what that was.

Q. I haven't asked you if you knew anything, but I simply asked you where you got the figures, and you said you got that capital stock figure from the Annual Report.

A. Yes, sir, that is right.

Q. And you got the mortgage bonds from that statement Exhibit No. 39?

A. Yes, sir.

Q. All I want to know of you is, upon the basis that you have indicated, for getting your figures, where you did, whether these calculations are right in reducing it down to per mile in Missouri: They are, aren't they?

A. Yes, sir.

Redirect examination.

By Mr. LADD:

Q. Did you prepare this Exhibit No. 46, Mr. Taliaferro?

A. No, sir.

Q. Who did?

Mr. HAGERMAN: I prepared it here in your presence. You saw me do it, and the Master saw me do it.

Mr. LADD: But I want the record to show it.

Q. Mr. Taliaferro, did you prepare Exhibit No. 39?

A. No, sir.

4619 Q. Do you know what the amount of mortgage bonds outstanding of the company is? Have you made any investigation?

A. No, sir.

Q. Do you know what the capital stock of the company is? Have you made any investigation?

A. No, sir.

Q. What is it about 65%, and 35% of mileage? There was something said about that: How is that involved here in this Exhibit No. 46?

A. The last Item of Exhibit 39 is the consolidated mortgage, which laps over into Kansas and Nebraska. The Exhibit states that 35 per cent of the mileage covered by that mortgage is outside of the state of Missouri, and 65 per cent is inside the state of Missouri.

Q. Do you know anything about it?

A. No, sir.

Q. Have you ever seen the mortgage?

A. No, sir.

Q. In column 3 it is said that the capital stock per mile is $25,464; and then below it, in the same column, it says "3,056 miles." I am referring now to Exhibit No. 46. If you multiply $25,464 by 3.056, what does that amount to?

A. It will give the Seventy-seven Million capital stock. The average per mile of $25,464, for the capital stock, multiplied by 3.056, gives a total of $77,817,984.

4620 Q. Do you know, or have you investigated, whether that capital stock was issued on account of the building or construction of the road, or the purchase of the equipment, or anything of that sort?

Mr. HAGERMAN: That is objected to, as immaterial and incompetent, because the witness has disclosed that this is simply a tabulation he made from the annual report of the company, and that he disclaimed attempting to verify it in any way.

Mr. LADD: He has not made any tabulation at all.

Mr. HAGERMAN: He agreed that that was a tabulation from the annual report. It is injecting argument, and using the statement for a purpose for which it was not intended.

The MASTER: The witnesss having testified it is a compilation mathematically correct, and you having shown it by one of their witnesses, it is perfectly competent for them to show, not only generally, but in detail, what knowledge, if any, he has of the facts that enter into that compilation.

Mr. LADD:

Q. I will ask you if you know that that capital stock of $77,817,984, which you arrive at by multiplying the average per mile by the total mileage, as shown in column 3 of Exhibit 46, was issued for the construction of the road, or for the purchase of any of the property of the road?

A. I have no information whatever on that subject.

Q. Will you please look at page 29 of the 26th annual report of the President to the Directors and Stockholders, for the year ending June 30th, 1906, at the top of the right hand column on that page, and see what that states as to what that capital stock, amount-
4621 ing to $77,000,000 odd dollars was for, and what it included?

A. The first item on the financial report you refer to reads: "By Capital Stock (including amount exchanged for capital stock of the St. Louis, Iron Mountain & Southern Railway)."

Q. And what are the figures opposite?

A. 77,817,875.00.

Q. Look at page 33 of that same report, under the head of "Financial Exhibit of St. Louis, Iron Mountain & Southern Railway Company;" How much of the capital stock of the St. Louis Iron Mountain & Southern is shown there?

A. $44,390,098.59.

Mr. HAGERMAN:

Q. What is the heading of that page?

A. "Financial Statement of St. Louis, Iron Mountain & Southern Railway Company, June 30th, 1906."

Q. And what is the heading of the other page you read from?

A. The heading of page 29 is "Statement No. 3, Financial Exhibit Missouri Pacific Railway Company, June 30, 1906."

Mr. LADD: In connection with this examination, I will offer in evidence page 29 of the same report, of the President to the Stockholders and Directors, as Defendant's Exhibit No. 47.

Mr. HAGERMAN: Objected to as incompetent, irrelevant and immaterial.

The MASTER: Objection over-ruled.

Defendant's Exhibit No. 47 is in the words and figures following, to-wit:

4622 Mr. LADD: I offer in evidence page 33 of the same report, of the President to the stock-holders and directors, as Defendant's Exhibit No. 48.

Mr. HAGERMAN: That is objected to as incompetent, irrelevant and immaterial.

The MASTER: The objection is over-ruled.

Defendant's Exhibit 48 is in the words and figures following, to-wit:

4623 Q. Look at page 29, the Financial Exhibit of the Missouri Pacific Railway Company, and state what it shows as the cost of road, equipment, etc.?

A. $72,508,400.24.

Q. Will you please divide that by the mileage, 3,056 miles, and see what it is a mile?

Mr. HAGERMAN: Objected to as immaterial and incompetent.

Objection overruled.

A. Dividing $72,508,400.24 by 3,056 miles, gives an average per mile of $23,727.

Q. In speaking of your estimate of the extra expense of doing the state business over interstate this morning, you said something about 50 per cent. What is it about 50 per cent?

A. I said that my estimate of the additional cost of state business over interstate business on the Missouri Pacific Railway in Missouri was that it could not possibly exceed fifty per cent; not that it was fifty per cent.

4624 T. M. BRADBURY, a witness of lawful age, being duly produced, sworn and examined, on the part of the Defendant, testified as follows, to-wit:

Direct examination:

By Mr. S. B. LADD:

Q. State your name?

A. T. M. Bradbury.

Q. What official position do you hold, if any, in the State government?

A. I am secretary of the Missouri Board of Railroad & Warehouse Commissioners.

Q. How long have you been secretary?

A. Since April, 1902.

Q. You are familiar with the business and the records of that office, I suppose?

A. Yes sir, I suppose so.

Q. Do the railroads in the state make annual reports to that Board?

A. Yes sir.

Q. They come into your possession as secretary, do they, and you have charge of them?

A. Yes sir.

Q. I will ask you if there is any railroad in the State of Missouri owned or operated by any one other that a railroad company or corporation?

A. No sir, I think not. They all report to the Commission
4625 as companies. They all report to our Commission as a railroad or railway company.

4626 NOTE.—Leave is given to the Defendant, at the next hearing, to introduce the witness Highleyman, and also the records of returns made by the Defendant Company to the Missouri State Board of Railroad and Warehouse Commissioners; and with these two matters excepted, the Defendant announces the testimony closed.

At this point, the further hearing is adjourned to Monday, March 18th, 1907, then to be resumed at ten o'clock in the forenoon of that day, in the Federal Building, in the City of St. Louis, Mo., where all parties are required to attend without further notice.

4627 KANSAS CITY, MO., *March* 25, 1907.

Met pursuant to adjournment as above, on Monday, March 25, 1907, in the Federal Bldg., in Kansas City, Mo., at ten o'clock in the fore-noon:

Present: Honorable F. L. Scofield, Special Master.

Mr. Frank Hagerman, appeared in behalf of the Complainants.

Attorney-General H. S. Hadley, Mr. John Kennish, and Mr. S. B. Ladd, appeared in behalf of the Defendants.

The following Proceedings were had:

A. P. TALIAFERRO, recalled, testified as follows:

Direct examination.

By Mr. S. B. LADD:

Q. Mr. Taliaferro, I show you the tax returns of the Missouri Pacific Railway Company to the State Auditor of this State, filed in the Auditor's Office, January 2, 1904: By whom does that appear to be sworn to?

Mr. HAGERMAN: We object to any enquiry as to the tax returns, because it is incompetent, irrelevant, and immaterial, because the State did not act thereon but independently there of assessed the property upon its own basis and at its own figures.

The MASTER: The objection is over-ruled.

Mr. HAGERMAN: That same objection will be held to all
4628 the testimony on this subject.

The MASTER: It may be so understood.

A. S. L. Highleyman, tax Commissioner of the Missouri Pacific Railway Company.

Mr. LADD:

Q. Have you made a calculation upon those returns as to the total value of the property returned by the Company for that year?

A. We have summarized the values shown by that report, yes sir.

Q. That is what I mean. What does it amount to?

A. The total is $8,400,131.19.

Q. When was that report sworn to?

A. On the 31st day of December, 1904.

Q. The total you figure is $8,400,131.19?

A. Yes sir.

Q. You have that return before you?

A. Yes sir.

Q. How do you arrive at those figures?

A. We took the values as shown by the return, just as they appear, and where there was no value shown, we put in an estimated figure, as in the case of 157.02 miles, on the River road known as the Kansas City, Lexington, Boonville & Jefferson City Line.

We estimated that at $10,000 a mile, being the value put on the main line from St. Louis to Kansas City, in the return.

Q. You say the value put upon the main line in the return?

A. Yes sir.

Q. Why did you estimate the value of the line from Kan-
4629 sas City to Boonville, or Kansas City to Jefferson City, the low line?

A. There was no value in the return.

Q. There was no value placed upon it in the return?

A. No sir.

The MASTER:

Q. But there was a valuation placed upon the main line in the return?

A. Yes sir.

Mr. LADD:

Q. And you gave that the same valuation that was placed upon the other part, by the Company?

A. Yes sir.

Q. Have you anything else there?

A. That is the only figure estimated.

But there was a figure for the value of rolling stock, which was spread over 2,807.77 miles of road. 283.37 miles of which were in Missouri. We divided that value upon a road mileage basis, as we found it had been assessed in the State upon a road mileage basis. That gave a figure of $798,253.29 as the value of the rolling stock on the main line, St. Louis to Kansas City.

All the other figures are the exact figures shown by the return for the State of Missouri.

Q. Was the rolling stock on all of the lines in Missouri except that part of it from Kansas City to St. Louis, valued in the return?

A. Yes sir.

Q. But upon that part of the line it was not valued?

A. Not for Missouri.

Q. And is valuation placed upon all the rolling stock for the 2,800 miles, in that return?

4630 A. Yes sir.

Q. And you gave the line from St. Louis to Kansas City its mileage proportion of that total valuation: Is that it?

A. Yes sir.

Q. With the two exceptions you have mentioned, the figures $8,400,131.19 are arrived at by taking the figures in the return, are they?

A. Yes sir.

Q. I wish you would look at the similar return, filed March 13, 1906, sworn to by Mr. C. S. Clark, the Vice-President, on the 31st of December, 1905, and state the value of the property in Missouri as shown by that return?

A. The total value as shown by that return, arrived at in the same way, as for the previous year—that is, by estimating the Kansas City, Lexington, Boonville & Jefferson City Line at $10,000 a mile, and apportioning to Missouri its part of the value of the rolling stock on that 283.37 miles, is $8,506,269.45.

Q. What is this large mileage, state it again.

A. It is different in the two years.
Q. For 1904, what was it?
A. 2,807.77 miles.
Q. What was it in 1905?
A. 2,812.03 miles.
Q. Those figures are from the returns which have just been mentioned?
A. Yes sir.
Q. What is the average value per mile, according to that return—what is that 2,807 and 2812? What mileage is that? Of
4631 the entire Missouri Pacific Railway system?
A. No sir, it reads this way: "The following rolling stock is used on the entire length of road that the company operates, except as herein reported (that means a number of branches), being 2,812.03 miles. And this length of road 2,528.66 miles, are located in Kansas, Nebraska and Colorado. And the pro-rate share of the rolling stock which is necessary to operate the road in Kansas, Nebraska and Colorado, is taxed there."
Q. I understand that the rolling stock in Missouri, except the main line from Kansas City to St. Louis, is valued in that return, is it?
A. Yes sir.
Q. What does it amount to?
A. $839,357.90 for 1904.

Mr. HAGERMAN:

Q. Is that the total rolling stock?
A. Yes sir, exclusive of the main line.

Mr. LADD:

Q. How much a mile is that for both those years?
The MASTER: He has not given the total for 1905.
A. For 1905, the figure is $921,734.40.

Mr. HAGERMAN:

Q. What do you mean figures that?
A. That is the value of the rolling stock shown in the return for all of the mileage in Missouri, except the 283.37 miles from St. Louis to Kansas City.

Mr. LADD:

Q. How much do those figures you have just mentioned, average per mile?

Mr. HAGERMAN:

Q. Does this valuation of equipment eliminate the line between Kansas City and St. Louis?
Mr. LADD: I so understand.

4632 Mr. HAGERMAN:

Q. You gave the value of the rolling stock for 1904, $839,357.90: Was that inclusive of the line between St. Louis and Kansas City?

A. That was for the line between Kansas City and St. Louis.
Q. What is the $921,734.40?
A. That is for 1905. But it does not correspond to the other.
Q. Proceed and I will get it out on cross-examination because I am confused the way you have it.
A. The value of the rolling stock per mile for the 655.94 miles of line owned in the state, which excludes the 283 miles between St. Louis and Kansas City, is $1280 per mile of track.

Mr. LADD:

Q. For what year is that?
A. For 1904.
Q. That is, according to the returns made by the Company?
A. Yes sir.
Q. How much is it for 1905?
A. $1405 per mile, approximately.
Q. For 1904, you allowed a ce-tain amount on account of rolling stock, to the main line between Kansas City and St. Louis: You have already stated the figures: What does that amount to per mile?
A. Approximately, $2817 per mile.
Q. What is the amount you allotted to the main line for 1905, on account of rolling stock, per mile?
A. Approximately, $2865 per mile.

4633 Q. What is the value, according to the return for 1904, of the property of the Company in this State, per mile, exclusive of rolling stock?

A. That is, all rolling stock?
Q. Exclusive of all rolling stock, whether valued in the return or not?
A. Is that the road-bed or does it include the buildings?
Q. Everything but the rolling stock.
A. Do you want to exclude the buildings?
Previous question read.
A. Approximately, $7200 per mile.
Q. And how much for 1905?
A. That would be the same figure, approximately.
Q. Does that include everything but rolling stock?
A. That is property reported as road-bed, buildings, et cetera, and is everything but the rolling stock.
Q. Does that include the Terminals?
A. That includes all that is in the return. I do not know what is returned. I have not enough acquaintance with the property to say.
Q. Look and see.
A. (After examining return.) The return reads, "Tax return of the Missouri Pacific Railway Company, aggregated detailed report of property returned for taxation on the 1st day of June, 1905."

The MASTER:

Q. Does not the report itself show the various items of property which enter into and constitute the entire amount returned? Doesn't it show whether the Terminals are included or are not?

Mr. HAGERMAN: I assume the form of the report includes
4634 everything they are bound to report to the State, and probably would not, include what is reported locally.

General HADLEY: The Terminals are not returned locally.

Mr. HAGERMAN: I simply make the suggestion. We can take all day to examine about an undisputed fact, if you desire.

Mr. LADD: I will offer in evidence both those returns.

Mr. HAGERMAN: We make the same objection to the introduction of these papers as made before.

The MASTER: The objection is over-ruled.

Above papers are marked Complainant's Exhibit Nos. 49 and 50, respectively.

Cross-examination.

By Mr. FRANK HAGERMAN:

Q. Your estimate of valuation is arrived at without anything on the face of the report showing the line values of the Lexington Branch?

A. Yes sir.

Q. And in arriving at your figures, you make an estimate on that of $10,000 a mile?

A. Yes sir.

Q. And that brings your general result?

A. Yes sir.

Q. The other thing you estimate is, you take the equipment and ascertain the number of miles there are in the entire system and take the valuation as found in that report and then allot to Missouri, such proportion, as the mileage in Missouri bears to the mileage of the entire system.

4635 A. Not for the system. But the miles to which that particular rolling stock belonged.

Q. I do not quite catch that. That is, say the rolling stock might be used between Omaha and St. Louis, that would be the only mileage upon which it would be apportioned?

A. No sir. The Company has apportioned certain rolling stock to its lines in Missouri, Kansas, Colorado and Nebraska, and the total mileage being 2807, in one year, and 2812 in the other year.

Q. What is the total mileage of the system?

A. 3492 miles on the Missouri Pacific proper.

Mr. LADD:

Q. When you speak of the Lexington Branch, you mean the road starting a few miles below here and running to Jefferson City, don't you?

Mr. HAGERMAN: The "River Line," is what I meant, wherever it runs to or from.

Q. Where in this report does the line begin and end, where there is no valuation put in?

A. The mileage is shown on page 14 of the return, for 1904.

Q. What I want to get at is where the line begins and ends, where you have no valuation on it at all.

The MASTER: Known in this record as "The Low Line," as I understand it.

A. Kansas City to Cole Junction, is the way it is headed in the report.

Mr. HAGERMAN:

Q. Cole Junction is just out of Jefferson City?

A. Yes sir.

4636 Q. And the length of that is what?

A. 157.02 miles.

Q. And the valuation of the rolling stock you say you got by allotting to Missouri such proportion of the entire mileage as the mileage in Missouri bears to the total mileage. The total mileage being ascertained in the way of which you speak.

A. The calculation is based on information shown on page 3 in each of the reports.

Q. That is, that shows the total value of the Missouri Rolling Stock for 1904, is how much?

A. $798,253.29 for the 283 miles, between St. Louis and Kansas City.

Q. And for 1905, what?

A. $811,855.05.

Q. Didn't you allot any equipment for any portion of the road to Missouri, except between Kansas City and St. Louis?

A. Yes sir, that is done in the returns.

Q. That is on the Lexington and Southern Branch. Is it on all the different branches?

A. Yes sir, all the branches.

Q. Then you only make this approximation upon this line between Kansas City and St. Louis?

A. Yes sir.

Q. And not upon the other. For those you take the figures shown in the return?

A. Yes sir.

Q. What is the total valuation upon this St. Louis line for equipment: Did you give those for 1904 and 1905, respectively?

4637 A. Yes sir.

Q. According to the annual report and Exhibit 5-*a*, the earnings in Missouri are about twenty-five per cent of those for the system? Aren't they?

A. Roughly, I think so.

Q. Assuming that you divided, the value of this equipment upon the basis of the earnings, say twenty-five per cent basis, what difference would it make in your figures?

A. I do not know that that calculation would mean anything.

Q. Maybe it would not mean anything but let us have what it would be?

A. I mean, this is only a part of the mileage. If it were the mileage of the system, it would be different. But there is a good deal of Missouri mileage not represented in here.

Q. But this example would be a great deal more favorable than if we would figure it on the revenue basis.

Tell me what the difference would be if you figured it on the basis of twenty-five per cent of the valuation for Missouri?

A. Twenty-five per cent of what?

Q. Twenty-five per cent of the valuation on the equipment on these two lines, and see what difference it would make in your figures?

Mr. LADD:

Q. What two lines, between St. Louis and Kansas City?

Mr. HAGERMAN:

Q. You have $7,100,000, haven't you, for one year?

4638 A. Yes sir.

Q. How much in dollars and cents in your figures do you allow to Missouri?

A. $798,253.29.

Q. What would it be if you took twenty-five per cent of the $7,000,000?

A. It would be about $1,980,000.

Q. And how would the other year be? Practically the same figure, wouldn't it?

A. Practically so.

Q. Upon the returns as you estimate them, and according to these figures, the total valuation of everything returned to the State Board, estimated as I say, in accordance with your way of estimating, for 1904, is $8,400,131.19, isn't it?

A. Yes sir.

Q. Per mile, that is what?

A. (After figuring) It is approximately $10,000 a mile.

Q. What did you divide by?

A. 839.

Q. That is wrong.

A. That is the total mileage owned in the State.

Q. How much is it, approximately $10,000?

A. Yes sir.

Q. And on the basis of the State assessment, multiplying by three, that would be practically $30,000 a mile, wouldn't it?

A. Three times $10,000 would be $30,000.

Q. And for 1905, what is it approximately per mile, according to the way you figure out the total valuation?

A. Approximately $10,140 per mile.

Q. And upon the three times basis, the same as the State

4639 Board assesses, what would it be?

A. $30,420 per mile.

Q. Do you remember the number of the exhibit that show the amount of the State assessment?

A. Exhibit 46.

Q. According to Exhibit 46, the valuation of the State Board is $41,839.58?

A. I do not recognize that.

Q. Have you what it is according to the State Board Assessment?

A. I can get it in a moment.

Q. Those are the figures you gave me yourself. But I want them for the purpose of comparison in connection with this tabulation of yours.

A. It is the assessed value of 1906, based on three times the figures shown in the journal of the Board of Equalization, $41,839.38 per mile.

Q. Take your theory you first gave me for 1905 and what are your figures for the entire State?—well never mind that.

As I understand you, in these tabulations of yours, the $8,400,131.19 includes your calculation upon the return of everything included in the return?

A. Yes sir.

Q. That is everything?

A. Yes sir.

Q. And the $8,506,269.45 is everything?

A. Everything shown upon the return.

Q. You include in that the rolling stock, or is the rolling stock in addition?

A. No sir, that is in that figure.

4640 Redirect examination.

By Mr. LADD:

Q. That $41,000 odd dollars per mile, does that include the value of the Franchise?

A. Yes sir.

Q. And the Pullman cars?

A. Yes sir.

Mr. HAGERMAN: We stipulated on those amounts, on the reports of these experts. All of the figures I have calculated upon for the purpose of introducing in evidence, is upon the theory that $41,839.38 was admitted in this case, because it was a matter of stipulation.

Mr. HAGERMAN:

Q. You are talking about Pullman cars now: Does that make any substantial difference in the figures we stipulated about. On the stipulation that was the valuation.

The MASTER: What is the object of introducing something which has already been stipulated about?

Mr. KENNISH: There is no such stipulation.

Mr. HAGERMAN: Turn to the record and see. But first let us see here. What does this Pullman amount to?

The point I make is, we fixed this amount. The State can never claim this value is any less than what they have assessed it upon. The Attorney-General is a party to this case. Now to say this $41,000 includes something that should not be included——

The MASTER: If you have stipulated in regard to this matter, I shall not permit you to introduce testimony contradicting that stipulation.

4641 Mr. HAGERMAN: I think I can obviate any lengthy examination or any special objection to it.

The only items about the Pullman cars in this assessment of the State Board is that found on page 54, amounting to less than $50,000, altogether. If there is anything more, point it out.

What I want to get at is, if it's only an item of about $50,000, we are wasting time on it?

A. (After examining report.) I find nothing else about the Pullman cars.

Q. That is to say, in the calculation, it would not amount to anything?

Mr. LADD:

Q. Is the value of the Franchise in the report?

A. There is an item running all through here stating "all other property"; I suppose that is the Franchise value.

General HADLEY: Because the statutes say so.

Mr. HAGERMAN: I am asking the witness.

A. I have heard that suggested a number of times. I do not know just from whom, but that is my understanding.

Mr. HAGERMAN: All other property is listed at what?

A. That figure will have to be worked out. It runs all through on the various properties.

Q. Never mind then, taking the time. I do not care anything about that.

Mr. LADD: Go ahead and work it up.

The MASTER: Will your contention be, if the amount of Franchise would be definitely determined, that a reduction on the amount paid, to that extent, should be made?

4642 Mr. HAGERMAN: Why should not we have the return on the Franchise value as well as anything else?

The MASTER: That is, when they come to set off their expenses, including the item of taxation, they ought not to be allowed to set off any taxes paid for the Franchise: Is that your contention?

General HADLEY: Our contention, when it comes to a question of the reasonable return, that they are entitled to, a reasonable return only upon the physical property and not a reasonable return upon the Franchise; and, secondly, in giving a figure upon which they contend the State would be bound——

The MASTER: Then it would have a double application. First, in respect of the value of the property upon which they are entitled to a reasonable return; and, second, upon the amount of expenses incurred in the operation of the road, in this to wit, the payment of taxes.

General HADLEY: The taxes they paid on the *the* Franchise they would be entitled to the same as taxes paid on the road-bed and the super-structure, but when it comes to a question of the reasonableness of the return on the road, then the question of valuation of Franchises would be important.

Mr. HAGERMAN: It is a mere incident of the value of the property and of course must be considered. Back of all, of course, the State can never assess its property upon a certain basis and then claim it is anything less.

General HADLEY: The State has provided how the Franchise shall be assessed, in the Act of 1901, and it has provided how that assessment for Franchises shall be designated upon the journal of the State Board of Equalization, and shows one-fourth of the
4643 valuation, which they now ask shall be taken as the basis of the return upon their investment.

The MASTER: I will hear whatever testimony you may have and determine that question and its applicability when I come to make up my findings.

Mr. HAGERMAN: We object to it on the further ground that it is not a possibility that this witness, who knows nothing about it, can tell what portion "of all of the property" included in that list, was applied to the Franchise value, if there was any such thing, as there is not under the statutes, of separating it. That is to say, "all other property that includes everything.

General HADLEY: That includes only the Franchise, because the statute so says.

Mr. HAGERMAN: What you call the Franchise value, under the statute, is listed as "all other property." But "all other property" is that simply the Franchise value? And this witness cannot know anything about it.

The MASTER: The objection would not be sustaiued on the ground that the witness is unable to separate them. It would excuse him from answering the questions if he is unable to separate the various items.

A. The total value of "all other property" as I have worked it out here, from the journal of the Board of Equalization for 1906, is $2,833,779.04.

Mr. HAGERMAN:

Q. And three times that would be what?
A. $8,511,337.12.
Q. And that is what pet cent of $39,300,157.90?
A. Approximately 21.6 per cent.

Q. How do you get those figures? The total valuation is
4644 $8,511,337.12?

A. That is three times $2,833,779.04.
Q. How do you get the percentage?
A. By dividing the eight million by the thirty-nine million.
Q. And that gives you what?
A. 21.6 per cent, if my calculation is right.
Q. How do you figure out or how can you figure out that two million odd thousand dollars is the Franchise value? The question is asked how much is the Franchise value and you answer "all other property" is so and so. Is there any way by which you can state all other property is or is not the Franchise valuation?
A. I have not any personal knowledge.

Q. Is there anything on the face of the record or within your personal knowledge to show any part of it is Franchise value?

A. Nothing in the record, and my personal knowledge is gained from some one in Jefferson City.

Q. Didn't you know when the question was asked you what portion of that was Franchise value that you could not give it and that all you could give was what you had figured out what "all other property" figured out?

A. I had in mind at the time that the Franchise value was "all other property."

Q. You heard my objection made here to your answering it because you could not give it and didn't you know you couldn't give it in answer to that question and could not separate it? Didn't you know that when the question was asked you and the objection was made?

4645 A. I answered as I could.

Q. You knew you could not answer it, didn't you? You knew you could not separate it at the time you answered it?

A. Before I gave the answer I said, I understood that Franchise was "all other property" and thus my answer covers the Franchise.

Q. Didn't you know at the time you made the answer to the question that you could not give separately, the amount of it that was Franchise value?

A. I stated, Mr. Hagerman, what my testimony was based on.

Q. Did you know it?

A. I know only what I had been told or understood about it.

Q. Whether you have been told or not, you cannot now, take that record and point out the part of that "all other property" than Franchise?

A. It is not stated as Franchise in the journal.

Q. There is nothing stated about the Franchise in the journal, is there?

A. No sir.

4646 Mr. LADD: I will offer in evidence the Local Assessment to the County of the Missouri Pacific Railway Company as made in 1905 for the taxes of 1906, as shown by the certificate of the State Auditor.

Mr. HAGERMAN: And as to that, the same agreement is made, that the assessment is upon one third of the valuation of the property?

Mr. LADD: Yes sir.

The paper referred to is marked "Defendant's Exhibit 51."

Defendant's Exhibit 51 is in the words and figures following to-wit:

4647 KANSAS CITY, MO., *March 25th*, 1907.

C. E. CARSON, a witness of lawful age, being duly produced, sworn and examined, on the part of the Complainant, testified as follows:

Direct examination.

By Mr. FRANK HAGERMAN:

Q. What is your name?
A. C. E. Carson.
Q. You are the superintendent of the Terminal at Kansas City, Mo?
A. Yes sir.
Q. There has been introduced in evidence here, a compilation showing that the mileage in Kansas of the Kansas City Terminals, was about twenty-six per cent, in round numbers, of the whole: But I do not believe anything has been said in the way of the difference in the improvement in the two states, upon the property.
In a general way, what is the character of the improvements in Missouri and those in Kansas?

The MASTER: Are you now referring to the Kansas City Terminals that are in Kansas and in Missouri?
Mr. HAGERMAN: Yes.
The MASTER: And not the other property?
Mr. HAGERMAN: Yes sir. Just the Kansas City Terminal.

A. I would consider the improvements in Kansas to be about ten per cent of the value.

Q. What is the difference? Give in a general way, some
4648 of the improvements in Missouri and some in Kansas.

A. In Missouri we have all the classification yards, roundhouses, elevator, and switching tracks to industries. I would say that about nin-ty per cent of our facilities are in Missouri.
Q. I presume the land in Kansas City, Mo., is worth more than land in Kansas City, Kansas, as a general rule?
A. I think so.
Q. Taking everything into consideration, the character of the facilities and the nature of the improvements, and the different kind of improvement, the land, etc., in valuation, what would you think would be the value, relatively, in a general way, as between the two states?
A. I would think that same percentage would govern.
Q. In keeping the accounts, Mr. Carson, it appears here, that for a number of years the accounts have been kept irrespective of the state line, and never until this question came up, was it necessary to make any enquiry as to a division by reason of the State Line: The Company seems to have put the expenses into the Missouri end of it, on an arbitrary basis, by which all the revenues for instance, that come from switching, all go to Missouri, Kansas getting none of it. And of the shipments that come to or from the State Line, or the Kansas Side, to the north or west, I believe it is called the

Atchison Division, all goes out of the State and Missouri gets no revenue from it at all. So it is fixed on some arbitrary basis.

But assuming that you were going to wipe out that arbitrary basis and put it upon an actual basis, by which each State
4649 was to get its own business, etc., what apportionment do you say would be fair as between Kansas and Missouri, as to the expenses of the Terminals?

A. Somewhere between six and ten per cent.

Q. This you say just from your general observation, in operating here and being in charge of the plant?

A. Yes sir, without figuring it in any way.

Q. You have had Mr. Roth and Mr. Johnson make a compilation as to the tonnage, which will be introduced whenever they go upon the stand?

A. Yes sir.

Q. And that was got up by them instead of you?

A. I do not know anything about the compilation of the figures, except generally.

Q. Generally, it would concur with your judgment?

A. Yes sir.

The MASTER:

Q. Let me see if I understand that:

In your judgment, you think, taking into consideration the value of the property and also of the amount and the direction of business done in these yards, that from six to ten per cent of the expenses might fairly be charged to Kansas and the balance of the expenses charged to Missouri: Is that correct?

A. Yes sir.

Cross-examination.

By Mr. LADD:

Q. Do you mean as between Kansas business and Missouri business?

A. I mean as between the business handled in Kansas and
4650 the business handled in Missouri, separating the two by the State Line.

Q. You mean the business actually handled in that part of the Terminals just in Kansas, and the business actually handled in that part of the Terminals just in Missouri?

A. Yes sir.

Q. No matter where it comes from and no matter where it is going.

A. Yes sir, taking the Terminals as a whole.

Mr. HAGERMAN: Of course the States will have to divide as between themselves, after they get it; that is, between State and interstate business.

Mr. LADD: I want to understand the witness.

Q. You say you think six to ten per cent of the business which is handled in these terminals is handled in that part of the terminal

which is west of the State Line, and the rest of it is handled in that part of the Terminal which is east of the State Line?

A. That is my understanding.

Q. You do not have any regard, then, as to where that business comes from or where it is going to?

A. Not in that statement, no sir.

Q. You mean by this also,—you say according to your estimate that six to ten per cent of the amount of business handled in these yards is in that part of them west of Kansas City, Missouri; Do you mean to say also, that from six to ten per cent of the expense actually incurred, is west of the Kansas Line, incurred in the doing of the business in those Terminals that is west of the Kansas Line?

4651 A. Yes sir. Somewhere in that neighborhood, six to ten per cent.

Q. Now, Mr. Carson, in making that approximate estimate, how do you treat the live-stock business at the Kansas City stock-yards, hauled in or out of those yards by the Missouri Pacific Railway: Do you treat that as being done east of the line or west of the line?

A. I treat that as Missouri business.

Mr. HAGERMAN:

Q. But taking everything into consideration, as an open question, and giving Kansas the benefit of any portion of the revenue that ought to be given it, you think six to ten per cent would be a fair estimate?

A. That is my estimate.

Mr. LADD:

Q. And you treat the live-stock business as being handled in Missouri?

A. Very largely. It finally lands in Kansas.

Q. What?

A. Stuff from Missouri or western Kansas——

Q. I am talking about the handling of the live stock business in the Kansas City Terminals: Do you treat that as being handled west of the State Line or east of the State Line?

A. Both.

Q. How much of it do you treat as being handled west of the State Line?

A. The principal work in connection with the handling of the stock is done in Missouri. It is finally, simply pushed into

4652 the stock-yards and a small proportion of the expense in connection with the handling of that stock, would be chargeable to Kansas.

Q. You say the principal part of the work is done in Missouri: How?

A. On my division, the Kansas City Terminal Division, it is switched out of trains in Missouri.

Q. Where?

A. Between Southwest Junction, at Southwest Junction, or in the State Line Yards, and it is handled from Southwest Junction to the State Line.

Q. Where is it loaded and unloaded?
A. It is unloaded then in the State of Kansas, very close to the Line.
Q. How is it about live stock that comes down from the north & north-west?
A. A part of that handling is in Missouri also.
Q. What part of it?
A. I would say about twenty-five per cent of the work in connection with it.
Q. Where does it get into the Missouri part of the Terminals?
A. Simply crosses the State Line.
Q. Where?
A. At the State Line.
Q. For what purpose?
A. For the purpose of weighing or getting into the stock pens.
Q. You mean it just moves across the State Line for the
4653 purpose of moving back into Kansas?
A. Yes sir and weighing. The engine is in Missouri.
Q. Where are the scales?
A. They are in Kansas.
Q. And the engine may go up ahead into Missouri, for the purpose of getting that train far enough ahead to back it on to the scales?
A. Yes sir.
Q. Is that all that is done with stock in Missouri, coming from the North and Northwest?
A. Yes sir, that is all.
Q. Do you think that is twenty-five per cent of it?
A. That is the principal amount of the handling; the engine is in Missouri.

At this point a recess was taken until two o'clock P. M.

4654 After recess on Monday, March 25, the following proceedings were had:

Mr. HAGERMAN: I wish to introduce in evidence the Governor's Message of February 27, 1907, calling upon the Legislature to repeal the Act, which we seek to enjoin, on two grounds: First, because discriminatory; and second, because confiscatory as to the live-stock rate.

General HADLEY: That is objected to on the ground it is incompetent, irrelevant, and immaterial; a statement of no person who is a party to this record; and in no way binding upon any person who is a party to this record.

The MASTER: The objection is over-ruled.

The paper referred to is marked "Complainant's Exhibit 52."

Complainant's Exhibit 52 is in the words and figures following to-wit:

4655 Mr. HAGERMAN: I also desire to offer in evidence, in the same connection, that portion of the Governor's Message at the convening of the Legislature, upon the same subject and to the same effect.

To which offer, the Counsel for the Defendants make the same objection.

The MASTER: The objection is over-ruled.

The paper referred to, is marked "Complainant's Exhibit 53."

Complainant's Exhibit 53 is in the words and figures following to-wit:

4656 Mr. HAGERMAN: I will also offer in evidence the Governor's Message approving the bill in 1905.

To which offer, the Counsel for the Defendants make the same objection.

The MASTER: The objection is over-ruled.

The paper referred to is marked "Complainant's Exhibit 54."

Complainant's Exhibit 54 is in the words and figures following to-wit:

4657 The MASTER: The Complainant will be permitted, at this time, to introduce the Messages referred to, with leave to file hereafter, as Exhibits in the Case, duly authenticated copies of those Messages.

4658 F. P. JOHNSON, Recalled, on behalf of the Complainants, testified as follows, to-wit:

Direct examination.

By Mr. FRANK HAGERMAN:

Q. Since the adjournment in this case, you, Mr. Roth and myself have gone over a great many of the exhibits submitted by Mr. Ludlam and Mr. Taliaferro, and you gentlemen, after conference with me, have prepared some exhibits to be used in rebuttal, haven't you?

A. Yes sir.

Q. And you have them now before you?

A. Yes sir.

Q. Mr. Ludlam undertook to make comparison of the average loading of cars in Missouri with the average loading upon the entire system, by a comparison of cars loaded at various stations, ascertaining the average by dividing the number of tons by the number of cars, without regard to the length of the haul, and found it to be 29 tons per car, and comparing that with the average number of tons per car per mile, as shown by the Company's annual report, 192 tons:

Have you made some figures, showing the absurdity or fallacy of that statement?

A. Yes sir.

Q. Will you produce that as an exhibit, and state what it shows by the example you put?

A. Yes sir. Here is the statement we prepared. (Producing paper.)

4659 Mr. HAGERMAN: I will offer in evidence this statement as "Complainant's Exhibit No. 8-*a*."

Complainant's Exhibit No. 8-2 is in words and figures following, to-wit:

4660 Q. What was the result of that, as showing the average number of tons per car? And in the same connection, what does that show as the average number of tons per car per mile?

A. We have taken as an illustration a train consisting of four cars, and figuring the average number of tons per car, as was shown in the case of Exhibit 8, we find we have twenty-five tons per car. But in figuring the average number of tons per car per mile, as was the case in the Annual Report, the same train would consist of sixteen and a half tons.

Q. That is all set out in your Exhibit 8-*a*?

A. Yes sir.

Q. Have you prepared a statement as to the Kansas City terminal situation, showing the total number of tons of freight destined to or originating at Kansas City proper, and handled in the terminal yards at Kansas City during the month of October, 1905?

A. Yes sir, such a statement has been prepared.

Q. Will you produce that as Exhibit No. 11-*a*?

A. Yes sir (Producing paper).

Mr. HAGERMAN: I will offer in evidence this paper as Complainant's Exhibit No. 11-*a*.

Complainant's Exhibit No. 11-*a* is in words and figures following, to-wit:

4661 Q. Of all the freight that comes to the Kansas City terminals, what percentage is consigned to or from Kansas City, Mo., proper?

A. That portion of it which includes Kansas City Grand Avenue, 60.93 per cent.

Q. What proportion is consigned to or from Kansas City, Kansas?

A. Six-tenths of one per cent.

Q. What is the percentage of that business which is consigned to or from the Omaha Division, what we call "The Northwesterly Line," and some call in "The Atchison Division," where Missouri under the distribution now has no part of the haul, and gets no part of the revenue?

A. 12.32 per cent.

Q. What proportion of the above was consigned to or from points on other than the Omaha Division?

A. Kansas City, Mo., 48.61 per cent. Kansas City, Kansas six-tenths of one per cent.

Q. What was the total amount of freight which passed through the Kansas City terminal yards at no time terminating at either of the Kansas City-s?

A. 38.47 per cent.

Q. Of that percentage, what was the percentage which passed to or from the Omaha Division—this is the through stuff?

A. About 9.62 per cent.

Q. Of that 9.62 per cent through tonnage, 12.32 per cent
4662 destined to or from the Omaha Division, .6 per cent from Kansas City, Kansas would represent all the freight that got into the state of Kansas?

A. Yes sir, that got into the state of Kansas.

Q. In the way you kept your accounts, all live stock business to or from the stock yards at Kansas City is treated as Missouri business, whereas live stock business from the north, or the Omaha Line, to or from Missouri, is treated as business outside of Missouri?

A. That is my understanding.

Q. What proportion of the entire part of the freight handled at the terminals has Missouri of the haul and the benefit of the revenue?

A. 87.68 per cent of the total amount of business.

Q. And what is the percentage of stuff that is handled in these Kansas City terminals, of which Missouri gets no benefit whatever?

A. 12.32 per cent.

Mr. HAGERMAN: Do you understand these figures, Judge Schofield?

There are 251,984 tons in the first item of the Exhibit, which represents all the freight that is consigned to or from either or both of the Kansas Cities.

There is 157,516 tons, which is 38.47 per cent, of stuff that passes through these terminals, that is neither consigned to or from either Kansas City, and of that which passes through, 39 per cent does not go out any place to the south or west, but goes up on the Omaha Division, either passing through Kansas City on the
4663 north and west, or passing from points east of Kansas City up over that line.

The MASTER:

Q. That is 9.67 percent of the 157,516 tons and not of the whole?

A. That is only of the 157,516 tons. It is about 25 per cent of the 157,516 tons, or 39,379 tons.

Mr. HAGERMAN:

Q. What you mean is, it is 25 percent of 157,516 tons, but 9.62 percent of the entire tonnage?

A. Yes, sir.

The MASTER: I did not so understand it.

Gen. HADLEY: That does not make any division between state and interstate?

Mr. HAGERMAN: No, sir, You are not posted, because you haven't been here. They charge the whole to Missouri, and then, after they charge it, it is divided between state and interstate.

Gen. HADLEY: But you have no figures as to any division on the terminal charges between state and interstate?

Mr. HAGERMAN: No, sir, that has to be divided according to whose ever theory is right. There is no way to divide that except on some theoretical basis. As to that we differ: you claim the ton mile basis, and we claim the revenue basis is correct.

Q. Turn now to Mr. Ludlam's Exhibit No. 19, and I will ask you if there has been prepared, and if so and it is correct, will you produce, a statement which I will ask to have marked "Complainant's Exhibit No. 19-*b*."

A. We have prepared a statement based on the figures
4664 shown in Defendant's Exhibit 19, to be introduced as Exhibit 19-*b*.

Q. That is to say, Defendant's Exhibit 19 purported to be a statement of the tonnage, the ton miles, and the freight earnings, for the month of October, 1905?

A. Yes, sir.

Q. And Exhibit 5-*c*, was a statement of the actual state and interstate earnings for the entire year of 1905?

A. Yes, sir.

Q. This Exhibit 19-*b* is prepared for the purpose of showing that Exhibit 19 is upon a wrong basis, so whenever the figures therefrom are used, they are wrong figures?

A. Yes, sir.

The MASTER: I assume this Exhibit is self-explanatory?

Mr. HAGERMAN: Yes, absolutely. I shall not go through the details, because it explains how it was made up.

I offer in evidence this paper as "Complainant's Exhibit No. 19-*b*."

Complainant's Exhibit 19-*b* is in words and figures following towit:

4665 Q. Exhibit 5-*c* shows that as a matter of fact the freight earnings for October were what percent of those for the year?

A. Exhibit 5-*c* shows that for October the freight earnings were 9.2 percent of the earnings for the entire year.

Q. To make the multiple so as to have October represent the entire business for the entire year, what would you have to use?

A. Ten and a half.

Q. The result of that comparison, without going through the detail, if you apply that ten and a half to defendant's Exhibit 19, what is the result, and what are the differences?

A. The Interstate figures on Exhibit 5-*c* are $26,687.16 less than the interstate earnings in Exhibit 19.

Q. That is to say, if you take Exhibit 19 and compare it with Exhibit 5-*c*, which the defendant produced as representing the actual earnings, he has in Exhibit 19, $26,687.16 more than ought to be in the interstate earnings?

A. Yes, sir.

Q. And what are his figures as to state earnings?

A. The state earnings for the month of October, as shown upon Exhibit 5-*c*, amount to $146, 976.02, or $16,138.46 more than the state earnings shown in Exhibit 19.

Q. That is to say, he diminishes the state earnings $16,138.46, by his method of calculating, from the actual figure.

A. Yes, sir.

Q. And he increases the interstate $26,687.16 over and above the actual figure?

A. Yes, sir.

4466 Q. And what is the total difference made up by that result?

A. Exhibit 5-*c*, total earnings, $497,993.76 or $10,548.70 less than the total earnings on Exhibit 19.

Q. How much in dollars and *dents* does it make the difference for the year on interstate earnings?

A. The interstate earnings, as shown on Exhibit 19, amount to $280,215.18.

Q. That is, too little?

A. More than they do on Exhibit 5-*c*.

Q. And how about the state earnings?

A. The state earnings as shown by Exhibit 19 are $169,453.83 less than they are on Exhibit 5-*c*.

Q. What is the result when you apply the figures in Exhibit 19, on the basis of tonnage, to the actual situation?

A. Exhibit 19 shows that 86.63 cents per ton was received for all state freight.

Q. That finally results, without going through the subdivision, in a difference for the year of how much, in tonnage?

A. The total tonnage equals 596,688 tons, as against 610,534 tons, as shown by Exhibit 19; a difference for the month of 13,846 tons. Or, using a multiple of ten and a half, for the year, 145,383 tons.

Q. By this method of figuring, how much in tons does he cut us out of, in state tonnage?

A. The state tonnage for the month of October is 18,626 tons more than is shown by Exhibit 19.

Q. For the year what would that be?

4667 A. For the year, 195,373 tons.

Q. So when you deal so far with this Exhibit 19-*b*, both with the revenue and with the tonnage, you find these extraordinary changes.

Now, what is the result when you figure upon his Exhibit 19, as to the tons per mile?

A. The total makes a deficit for the month of October of 2,449,-368 ton miles.

Q. And for the year?

A. 25,718,364 ton miles.

Q. And how much in ton miles are we deprived of by his method of figuring, in state freight?

A. The state freight for the year shows a difference of 10,194,964 ton miles.

Q. Practically, every Exhibit submitted by the state, for the purpose of showing net earnings, uses as a basis the ton miles and the amount received per ton per mile, as shown by Exhibit 19, doesn't it?

A. Every Exhibit Submitted by the state—yes.

Q. So, if you are right, and these figures you have given in Exhibit 19-*b* are right, and prove themselves, every figure used by the state's expert is wrong?

A. To the extent of these differences—yes, sir.
Q. Have you prepared an Exhibit called Exhibit 26-*a*?
A. Yes, sir.
Q. For the purpose of showing the density of traffic on different portions of the road, as compared with the entire system?
A. Yes, sir.
4668 Q. Is that correct?
A. Yes, sir.

Mr. HAGERMAN: I will offer in evidence this paper as Complainant's Exhibit No. 26-*a*.

Complainant's Exhibit No. 26-*a* is in words and figures following to-wit:

4669 Q. I notice in the last part of this Exhibit this expression: "The general conditions on the St. Louis, Iron Mountain & Southern are so different and so much better than on the Missouri Pacific Railway, proper, that a general average cost on the system is no indication of the cost on the Missouri Pacific Railway, even in the state of Missouri." That is correct, is it?
A. Yes, sir.
Q. Why so, Mr. Johnson?
A. That is due, in a great measure to the class of tonnage handled on the Iron Mountain, and the system of routing that tonnage. The average loading per car and the average loading per train, and the length of the haul.
I might say this statement is simply a copy of the figures taken from Forms 1940 and 1941.
Q. That is to say, you have taken those figures from those forms which the Defendants produced as Exhibits?
A. Yes, sir.
Q. Have you prepared an Exhibit to be filed as Exhibit No. 29-*a*?
A. Yes, sir.
Q. Is that correct?
A. Yes, sir.
Q. This Exhibit is prepared for the purpose of showing that if you undertake to apply Exhibits 19, 28, 29, 30 and 31, and take your earnings as they are in Exhibit 5-*a*, the result will be that there is a very large deficit in earnings?
A. Yes, sir.
4670 Q. Exhibits 28 and 29 show the cost per ton per mile, reduced to the cost per ton, which is based upon figures applicable to the entire system, as shown by Forms 1940 and 1941; and that you say is not fair, because the cost in Missouri is not to be compared to the cost on the system, as explained in this Exhibit 26-*a*?
A. Yes, sir.
Q. Exhibits 30 and 31 purport to do what?
A. Exhibits 30 and 31 purport to show the earnings, or divide the earnings, as shown by Exhibit 5-*a*, into carload and less than carload, state and interstate. That is, it does that, among other things.

Q. Exhibit 30 is what?

A. Exhibit 30 arrives at the number of tons per mile, by dividing the total revenue shown by Exhibit 5-*a* by the revenue per ton per mile as shown by Exhibit 19.

Q. If you apply that method to arrive at the number of tons, and the cost per ton, what is the result, as applied to the actual figures?

I do not care for you to go through the example as you have set it out here, but what is the result? That is to say, Mr. Ludlam figured it at single cost, double cost and treble cost. If you undertook to figure it in any other way, how much is the actual deficit in actual earnings, applying his figures?

A. Actual deficit?

Q. Actual cost, I guess it is.

A. On the second page of this Exhibit 29-*a*, is shows those figures.

4671 The single cost interstate is $2,662,795.43.

The single cost state is $711,476.26.

This makes a total of $3,374,271.69.

While the actual freight expense in the state of Missouri, as shown by Exhibit 5-*a*, was $4,203,320.24, or a difference of $829,-048.55.

Q. That is to say, if you take these Exhibits of Ludlam, and figure upon the basis of cost per ton, you will find there is, without allowing any increased cost on state business, an actual deficit in the Exhibit of $829,048.55?

A. Yes, sir.

Q. And this Exhibit shows exactly how it works out, to a mathematical certainty?

A. Yes, sir.

Q. At Mr. Ludlam's double cost, how much deficit is there, when you figure it on the basis of tons, as he gives it in Exhibit 19?

A. This is assuming that only station, yard, train and engine service has been doubled?

Q. Just what he said before?

A. The double cost interstate is $2,584,629.30.

The double cost state is $808,136.76.

Or a total of $3,392,766.06.

Q. Or a deficit of how much?

A. While the cost as shown on Exhibit 5-*a* is $4,203,320.24, or a difference of $810,554.18.

4672 Q. Take the triple cost, just as Mr. Ludlam figures it, and then take it as shown in Exhibit 19, and how far short does it come of meeting all expenses?

A. The difference between the total cost on that basis, and the freight expense in Missouri, as shown by Exhibit 5-*a*, would be $795,134.20.

Q. Going to his Exhibit 19 again, upon a basis of ton miles, what is the result, in finding a deficit in the expenses? You need not give the subtractions, but the total deficit ascertained in that way, in ton miles, at single cost.

A. The difference between the figures arrived at on that basis, and the expense reported by the Railroad Company, at single cost, would be $816,265.75.

Q. At his double cost or method of figuring, what would it be?

A. $797,772.66.

Q. At his method of figuring triple cost, what would it be?

A. $782,380.61.

Q. That is to say, taking now as true his estimate in certain exhibits as to the number of tons, and the number of ton miles, the result is that you lack these sums, figuring just as he figures, of getting the actual expenses actually paid out?

A. Yes, sir.

4673 Mr. HAGERMAN: I will now offer in evidence this paper, as "Complainant's Exhibit No. 29-*a*."

Complainant's Exhibit No. 29-*a* is in words and figures following, to-wit:

4674 Q. This paper marked Exhibit 36-*b*, has been prepared mainly from figures originally obtained by Mr. Roth, and you assume them to be correct, do you?

A. Yes, sir.

Q. With that assumption, and relying upon him as to that matter, the statement is correct?

A. Yes, sir.

Mr. HAGERMAN: I will now offer in evidence this paper as "Complainant's Exhibit No. 36-*b*."

Complainant's Exhibit No. 36-*b* is in words and figures following to-wit:

4675 Q. What is the purpose of Exhibit 36-*b*, Mr. Johnson? It applies to Exhibits 36, 37, and 38, as afterwards corrected by Exhibits 36-*a*, 37-*a*, and 38-*a*?

A. Yes, sir.

Q. That is to say, there were some figures as prepared by Mr. Ludlam, which, during the course of his examination, he corrected, and filed the corrected Exhibits?

A. Yes, sir.

Q. Exhibit 36 and 36-*a* were upon the basis that there were twelve through trains, whereas the time-table showed that there were eight through trains, four each way, and 29 local trains, 14 west-bound, and 15 east-bound: those are matters which you say were checked up more particularly by Mr. Roth?

A. Yes, sir. This statement was made altogether by Mr. Roth, and from figures which he secured.

Q. In apportioning it, and going over it with him, you assume that he has correctly gotten his figures?

A. Yes, sir.

Q. What is the result?

A. The examination first of the records of the Transportation Department of the Missouri Pacific developed the fact that on the Eastern Division, during the month of December, 1906, the following number of trains was actually handled:

Through trains, 579:

Of the way freight trains there were 353 local trains, 773 ordinary freight trains, and 208 mixed freight and passenger trains.

4676 Q. Making a total of how many?

A. Making a total of 579 through trains, and 1334 local trains.

Q. In Exhibit 36, and the subsequent Exhibits to which we referred, were prepared by Mr. Ludlam upon the theory that what percentage of the through trains were local, and what percentage through?

A. On the theory that there were twelve through trains and two locals.

The MASTER: For that one day.

Mr. HAGERMAN: He takes that one day, and applies it, and makes a year out of it.

Q. What I want to get at in percentage, upon Mr. Ludlam's figures, and the basis upon which he has prepared these Exhibits, about fifteen per cent is local, and eighty-five per cent is through trains.

A. One-seventh, or 15 per cent, of all freight trains was local; and six-sevenths, or 85 per cent, were through trains.

Q. Assuming the figures as shown by Mr. Roth, and as shown by these time-tables, to be correct, as a matter of fact, what was the real per cent?

A. 78 per cent were local trains, and 22 per cent were through trains.

Q. If you apply those figures to Ludlam's Exhibits, it would absolutely disfigure and destroy them?

A. Yes, sir.

Q. His figures are based upon the idea that fifteen percent
4677 of the freight trains were local, and about eighty-five percent of them through trains?

A. Yes, sir.

Q. And instead of that 78 per cent were local, and 22 per cent were through?

A. Yes, sir.

Q. This Exhibit 36, and the subsequent Exhibits, state that only 5.8 per cent of all the freight was carried on these local trains, and 94.2 per cent was carried on the through trains: what have you to say about that? Taking his Exhibit 19, for instance, to show the total tonnage, and applying your multiple?

A. Exhibit 19 shows the total tonnage handled in Missouri during the year 1905 was of state freight 1,884,955 tons; and of interstate freight 4,595,305 tons; or, 6,480,260 tons in all.

Applying these percentages of 5.8 and 94.2, the local trains would carry 375,855 tons, and the through trains would carry 6,104,405 tons.

Now, assuming that the month of December is one-twelfth of the year's tonnage, the 1334 local trains would have carried 31,321 tons, or about 24 tons per train. And the 579 through trains would have carried 508,700 tons, or about 878 tons each.

Q. That would be practically a physical impossibility in railroading, to say the way trains never carried more than 24 tons each, as against 878 tons for the through trains: Is that right?

A. Yes, sir.

4678 Q. Go on with the rest.

A. Exhibit 14-*a* gives the average load for trains examined, eight through trains 470 tons, and eight local trains 204 tons each, on an average.

The records in the Transportation Department show that the average number of gross ton miles per train is, through trains 99,243; local trains 43,282.

That is to say, that whereas the statistics show that the through trains' gross ton miles are only a little more than twice as great as the local trains' ton miles, notwithstanding the very much longer haul which the through train freight would be carried, the tons per train, based on Exhibit 36 et sec. would be 37 times as great.

Q. That is to say, the way Mr. Ludlam figures it, the ton miles are 37 times as great upon the through as upon the local trains, whereas statistics show about twice as much?

A. A little over twice as much.

Q. Go on with another illustration?

A. Exhibit 14-*a*, local trains, gives percentages of state freight as 41 per cent, and interstate freight as 59 percent; while Exhibit 15 gives that of through trains, state freight 7 percent, and interstate freight 93 percent.

Applying these percentages to the total number of state and interstate tons carried as shown by Exhibit 19, on the basis upon which Exhibit 36 etc. were prepared, the result would be:

The local trains carry, of state freight.....	154,101 tons
" " " " " interstate "	221,754 "
Or a total of.....	375,855 "
4679 The through trains carry, of state freight....	427,308 tons
" " " " " interstate freight	5,677,097 "
Or a total of.....	6,104,405 "

Q. To get down to percentages, if you apply Mr. Ludlam's figures in Exhibit 19 to these percentages, upon the basis on which he prepares his Exhibit 36, etc. what is the shortage? Instead of carrying 1,884,955 tons, as shown by Exhibit 19, he carried how much state freight, actually?

A. 581,409 tons.

Q. That is what per cent?

A. That is 31 percent.

Q. What excess do you get of the interstate?

A. The interstate freight would be 5,898,851 tons, or 29 percent more than the actual number of tons of interstate freight, as shown by Exhibit 19.

Q. Now, what general observation do you make upon that result?

A. These figures show that Exhibits 14-*a* and 15 were prepared only to show that more tonnage was carried on certain particular through trains than upon certain particular local trains. They did

not give the average for the entire railroad, but for trains upon the best part of the main line, where the result would be the most favorable which could be claimed by the state on any part of the railroad.

Q. What do these Exhibits show was actually carried, on the through as against the local trains?

A. 470 tons on the through, as against 204 tons carried by the local trains.

4680 Q. That is more like two to one than thirty-seven to one?

A. Yes, sir.

Q. Have you prepared and will you produce as Exhibit 35, a summary of the reasons why the cost or expense as between state and interstate freight should be determined upon a revenue basis, as distinguished from a ton mile basis?

A. Yes, sir.

Mr. HAGERMAN: I will now offer in evidence this paper, as "Complainant's Exhibit 55."

Complainant's Exhibit 55 is in words and figures following, to-wit:

4681 Q. I want to ask you a few questions in the way of your observation, about it being a uniform way?

The MASTER: Let me understand this Exhibit, Mr. Hagerman: You have caused the witness to reduce to a concise form the various reasons which sustain his theory why the expenses chargeable to state freight should be determined upon a revenue instead of a ton mile basis?

Mr. HAGERMAN: Yes, sir.

The MASTER: And you propose to let these reasons appear in this Exhibit No. 55, as explanatory of those reasons?

Mr. HAGERMAN: Yes, sir. I don't know that it is necessary to examine him in detail about it, but one reason why it became necessary was especially on the question of uniformity. We had to take Mr. Ludlam's testimony and show that upon one item he would do it upon the ton mile basis, and on another upon the ton basis, and upon another item in still another way. We have had to make references to his testimony, to make the contrast, and I did not know but I could pass this Exhibit without going into any extended examination.

The MASTER: I do not intend to limit you in any way, but I wished to understand the purpose of the Exhibit. It is as if the witness were testifying *viva voce* to the statements contained in this paper: That is what it is?

Mr. HAGERMAN: Yes, sir.

The MASTER: It is a convenient and concise way of putting the views of the witness into the record.

Mr. HAGERMAN: Yes, and drawing a sharp contrast be-
4682 tween the different places in the record where Mr. Ludlam expressed his views upon the subject.

Mr. LADD: It also refers to decisions.

Mr. HAGERMAN: Yes, sir, to Smythe vs. Ames, and the North

Dakota case, where Judge Brewer and Judge Thayer said the ton mile basis was not the right basis, and that the revenue basis was.

It starts with that simply to direct the attention of the Master to it.

Next he says it is the simple way. And that Mr. Ludlam admits.

Then he starts with the proposition that it is the uniform way. And in that he contrasts it with Mr. Ludlam's method.

Mr. LADD: Of course, I don't care about it, but it seems a little odd that a witness should refer to decisions, giving the books and pages.

Mr. HAGERMAN:

Q. So far as the first paragraph of Exhibit 55 is concerned, and the references therein to these cases, you are advised by counsel for the Railroad, that was what was decided in the various cases, and we had the various cases before us in preparing this paper?

A. Yes, sir.

Gen. HADLEY: I regard it as out of order for a lawyer to write out an argument, giving decisions of the Supreme Court, and have the witness swear to it. Your Honor knows what the decision is.

Mr. HAGERMAN: That is one of the reasons for saying that the ton mile basis is not the best method.

4683 The MASTER: In answer to an interrogatory put by the Master, Counsel for the complainant has stated that this Exhibit is merely for the purpose of putting in a concise and convenient form, the reasons upon which this witness bases his opinion that the revenue basis is the correct one, and not the ton mile basis.

Now, whether the Master will follow him, and adopt his opinion as reasonable, is for the Master to determine later.

Gen. HADLEY: I recognize that, but Counsel has just indicated that it has informed this witness about these cases, and then had this paper prepared, and is now asking him to give the legal argument as his testimony.

The MASTER: Proceed.

Mr. HAGERMAN:

Q. I will ask you the question, Mr. Johnson, whether you agree with Mr. Ludlam that the simple way to apportion the expenses is on the revenue basis?

A. There is no doubt but what that is a simple way.

Q. What about its being the uniform way? You can apply it to everything?

A. A basis of that kind could be applied to all classes of expense.

Q. Mr. Ludlam, at one place in his testimony which is referred to in this Exhibit, claims that some of the terminal expenses are affected by the length of the haul, because trains with a long haul pass through terminals; and then, when he comes to deal with the terminal situation at Kansas City he says the local expense is

4684 3 times as great as the terminal expense on freight passing through: do you recall that?

A. Yes, sir. I might say here, that the terminal expense on

freight passing through was what he called "the way terminal expense," as distinguished from the originating or destinating terminal expense.

Q. He undertook to detail a lot of terminal expenses where he said they were not affected by the haul at all, and practically admitting that the ton mile basis could not be applied to them. Then he said there was a certain class of expense where the long haul did affect the situation, where the trains passed through, although they did not use them as an originating or terminating terminal: do you recall that?

A. Yes, sir.

Q. What class of expenses, in a general way, would you say are not affected by the haul at all?

A. I should say practically all of the station and yard service expense was incurred without regard to the length of haul, for this reason: I do not believe the intermediate terminal expense will amount to enough to make a calculation upon it.

Q. That is to say, you think the "passing through" expense would be such an incidental matter it would not justify making a calculation: is that right?

A. Yes, sir.

Q. If, as Mr. Ludlam says, the ton mile basis depends entirely upon the length of the haul, how could you ascertain by any just method, the expense upon the ton mile basis, as to such things as these?

4685 A. I don't believe you could, where the terminal expense, or practically all the station and yard expense, amounted to such a large proportion of the expenses of the railroad.

Q. Take the freight expenses of the Kansas City terminals, in the neighborhood of 780 odd thousand dollars a year; and I presume it is as much or more than that in St. Louis?

A. I should say the entire St. Louis terminal expense is probably twice as much as it is in Kansas City.

Q. That would make the entire terminal expenses in the state of Missouri, at those two terminals, about how much, in round numbers?

A. Probably forty percent of the total operating expense.

Q. So, if Mr. Ludlam is right that the ton mile basis can apply only where the length of haul is involved, and the length of haul is the only basis for dividing on the ton mile basis, there is practically forty percent of the operating expenses in Missouri that could not be measured—on his own testimony?

A. Practically that.

Q. That eliminates places like Jefferson City and Sedalia, and other places in the state, where there are large terminals, doesn't it?

A. Yes, sir.

Q. At another place in the testimony, I believe it is on pages 1274, 1276, and 1280, Mr. Ludlam says the valuation upon which a return is to be had should be upon a revenue basis, and not

4686 upon a ton mile basis. He admits that must be upon a revenue basis. That is an illustration of the lack of uniformity of his rule?

A. Yes, sir.

Q. At another place in his testimony he says that the rentals should be divided upon the basis of ton miles moved over the rented tracks. That is not the ton mile basis, to which he has already referred, is it?

A. He would take the number of ton miles, or, rather, the freight handled that moved over that track, for which we pay rental, as compared with the total ton mileage of the Missouri Pacific Railway, as between state and interstate.

Q. That is another matter upon which he would make another division?

A. Yes, sir.

Q. At page 1429 he says that passenger and freight should be divided upon the basis of net revenue: what would that be? What do you understand that to be?

A. That is the interest on our bonded indebtedness.

Q. What does he mean by "net revenue"?

A. Instead of dividing upon the ton mileage, or the gross revenue, he would divide it upon the net revenue, as between freight and passenger.

Q. According to his own testimony, that is four variations he makes in the application of his ton mile basis, isn't it?

A. Yes, sir.

Q. When he gets to dividing state and interstate freight, on pages 1281 and 1282, he does that on a ton basis: do you recall that?

4687 What I want to get at now is, what is the ton basis as distinguished from the ton mile basis: Whether that is a fifth method which he refers to.

Mr. Ludlam was asked this question:

"Assuming that we are to make a distribution of interest on the bonded indebtedness, wouldn't you say the fairer way would be to distribute the proportion that applied to these fixed items, where you say it ought to be ascertained upon the cost per ton as distinguished from the cost per ton mile, and should apply to that"?

To which he replied as follows:

"Yes, sir, in the case of those items where I say it would be fairer to apply it on the per ton rather than per ton mile, I would say the interest, where it relates to those items, should be correspondingly distributed."

A. In other words, the interest on the items covered by the terminals.

Q. What I want to get at, on this question of method is, that this is the fifth method, where he takes our Exhibit 5-*a*, and undertakes to make a distribution; and so every time you deal with the state's expert's method of calculation, as applied to each thing, there is a different method of calculating: isn't that true?

A. On each class of expense—yes, sir.

Q. If you take the revenue basis, you have a simple method, and the uniform method, whether it is right or wrong?

4688 A. Yes, sir.

The MASTER: How, if I understand the effect of this, you are complaining of the expert witnesses for the state, for not adhering uniformily to the basis which they suggest of apportioning expenses to revenue?

Mr. HAGERMAN: I say that is proof almost conclusive, in the way of argument, that it is not right.

The MASTER: I simply wish to see if I understand correctly.

As a basis of complaint you show that they have diverted from that basis, in four or five instances, in apportioning a part of the expenses to the revenue.

Mr. HAGERMAN: I undertake to say you cannot take Mr. Ludlam's testimony, if he is right, and adopt a certain method. You have to take every item of terminal expense and say "Is that particular item divided on a ton mile, or a revenue, or a ton basis?" because he says that where it is not affected by the haul, it is to be divided upon a ton mile basis.

Now, if you take the revenue basis, all on earth you have to do is to take your percentage and apply it all along the line, and you have a fixed and uniform thing, from start to finish.

While that may not be conclusive, yet it is an argument almost unanswerable—especially when the courts have always used it.

Q. Mr. Johnson did you prepare a paper which we will offer in evidence as Complainant's Exhibit No. 56?

A. Yes, sir.

4689 Q. You have produced here as Exhibit 56 the Complainants' final exhibit?

A. Yes sir.

Q. Summarizing the different applications of the questions involved here?

A. Yes sir.

Q. You have taken, for the purposes of this final exhibit, the figures of 1905, I observe?

A. Yes sir.

Q. That is for the two reasons that were stated here; first that 1904 was the World's Fair year, and for that reason the State had made its figures on 1905?

A. Yes sir.

Q. So when comparisons are made, they will be by both sides on the figures of 1905?

A. Yes sir.

Mr. HAGERMAN: I will now offer in evidence this paper as Complainant's Exhibit No. 56".

Complainant's Exhibit No. 56 is in words and figures following, to-wit:

4690 Q. A few words as to this first page of Exhibit 56:

Item One represents the earnings from the state freight as shown by Exhibit 5-*a*?

A. Yes sir.

Q. You deduct from that, in the first instance, the 29.27 per cent of all the freight operating expenses in Missouri?

A. Yes sir.

Q. That is upon the basis of revenue, without any allowance for increased cost?

A. Yes sir.

The MASTER: I do not understand that.

Mr. HAGERMAN: I was going to go through the items after I got the skeleton in your mind.

Q. Item One, you said, was earnings from state freight as shown by Exhibit 5-*a*?

A. Yes sir.

Q. Item Two is ascertaining the operating expenses, in the first instance, upon the basis of revenue, that is 29.27 per cent of all the freight expenses in Missouri?

A. Yes sir.

Q. That is freight operating expenses?

A. Yes sir.

Q. You can say that Mr. Ludlam, in the preparation of his statement, in the division of expenses, treated operating expenses as a thing separate and distinct from taxes and interest: that is true?

A. Yes sir.

4691 Q. And therefore we prepared this statement so as to make a comparison with his?

A. This does not include any taxes, rentals, or interest on bonded indebtedness.

Q. The next item (3) deducts separately a like proportion of expenses of taxes and rentals?

A. Yes sir.

Q. Item Four deducts as a separate item a like proportion as to the interest upon the bonded indebtedness?

A. Yes sir.

Q. Item Five represents, as will be explained in detail, or as I will ask you in detail later, six per cent return upon the excess in value of the property assignable to state freight over the mortgage debt?

A. Yes sir.

Q. And that leaves a deficit of how much?

A. That will leave a deficit of $63,362.94.

Q. And if you add to that the figure shown as to the deficit that there would be if this Act of 1905 were put into effect, what would be the result?

A. A deficit of $138,062.62.

Q. And up to this point there has been nothing allowed or accounted for, for the increased cost of doing state over interstate business?

A. No sir.

Q. So, at the top of page two of this exhibit, we have left a blank for the finding of the Master?

A. Yes sir.

4692 Q. And whatever that amount should be would have to be added to this total deficit?

A. Yes sir.

Q. Supposing, instead of deducting as you do in Items 4 and 5, first the proportion of interest and then the return, you do as was suggested by Counsel for the State, treat the case as though you were entitled to a return upon the property regardless of the interest, and did not count the interest in it at all, what would be the result as to the deficit?

A. That would be shown on page 2, under the sub-division "c", Items 4 and 5.

The first item on the sheet would be "Amount of earnings left after deducting operating expenses, taxes and rentals".

Q. That is the same as Item 3?

A. Yes sir, the same as Item 3 on the first sheet, or $372,498.97.

Q. And then, instead of Items 4 and 5, you simply take the return upon the value of the property, irrespective of the mortgage?

A. That would be $464,527.87.

Q. And that would make the deficit what?

A. $92,028.90.

Q. As against $63,362.94?

A. Yes sir.

Q. So if you adopt the theory of the State in that respect, the deficit would be that much larger than you calculated it?

A. Yes sir.

4693 Q. In Division No. 2 of this Exhibit 56 you have ascertained the percentages upon a revenue basis?

A. Yes sir.

Q. So, by the application of these percentages, you can readily apply it to any situation?

A. Yes sir.

Q. That is, given all the freight operating expenses, you have got the percentage to ascertain what the operation costs for state?

A. Yes sir.

Q. And you have set forth, as shown by the different exhibits, state freight, interstate freight; state passenger, interstate passenger; miscellaneous and rentals, state and interstate; and the totals?

A. Yes sir.

Q. That table of percentages was prepared, I see, from Exhibit 5-*b*?

A. Yes sir.

Q. That includes freight and passenger returns?

A. Yes sir.

Q. Now turn to Division 3, and see how you ascertain, in Item 1, Earnings from state freight, $1,658,527.67?

A. That was taken from Exhibit 5-*b*.

Q. That was conceded to be correct, or at least not the subject of complaint, upon the part of Mr. Ludlam, although in his Exhibit 19 he took in the neighborhood of $100,000 out of state and put it into interstate business, on the ground that it was live stock business from Kansas City?

4694 A. It was $10,423.35 for the month of October, 1905; and assuming that was one-tenth of a year's business, it would be approximately $100,000.

Q. What appeared strange to me was that he made that criticism, and included in Exhibit 19 that excess, and yet conceded our figures to be correct, and wanted to show nothing to the contrary.

Can you explain here how it would show worse for the State if that was included in the interstate earnings?

A. If that had been included in the interstate earnings it would reduce our state earnings that much, and we make that statement.

Q. What would be the difference in favor of the Complainant if you could have that $100,000 put where Mr. Ludlam puts it in Exhibit 19?

A. Assuming the $10,000 difference in the month of October, 1905, was one-tenth of a year's business for live stock, we have deducted from our state earnings $100,000, in round numbers.

Q. You took $100,000, in round numbers, to avoid fractions, and to illustrate the idea?

A. Yes sir. That would leave our earnings from state business $1,558,527.67 instead of $1,658,527.67.

Q. It would change the percentage from 29.27 per cent to 27.50 per cent?

A. Yes sir.

Q. And that would result in reducing the operating expenses how much?

4695 A. The operating expenses, on the percentage of 27.50 of the total, would amount to $1,155,913.07.

Q. That would leave what?

A. That would leave $402,614.60.

Q. As against what, in our showing?

A. As against a total of $428,215.84.

Q. So, although we did treat that $100,000 as state earnings, yet if we would take it out and put it into the interstate earnings, as Mr. Ludlam does in Exhibit 19, it would make a difference in our favor of over $25,000?

A. Yes sir.

Q. As against what is shown in Division 1?

A. As against $428,215.84.

Q. Or a difference of how much?

A. A difference of $25,601.24.

Mr. HAGERMAN: You observe that Mr. Ludlam, when he comes to deal separately with our Exhibit 5-*a*, has no criticism to make on it; yet he makes that transposition on Exhibit 19. If he made it on Exhibit 5-*a*, we would get $25,000 more benefit.

The MASTER: If you treated all cattle shipments as interstate, but the expenses of that transportation were charged up to interstate instead of to state, there would be a total difference in your favor of about $25,000?

Mr. HAGERMAN: Yes sir, the way we have done it, we have lost in our method of book-keeping $25,000, as against the other way.

You can figure until dooms-day, and you cannot figure it any other way, because the percentages work out.

4696 Q. Now, take Item 2 on this first sheet of Exhibit 56, which is the percentage of operating expenses upon a revenue basis,

allowing nothing for the increased cost of doing the state business: what did you make that?

A. 29.27 per cent.

Q. In the first instance, nothing is changed on account of the Kansas City terminal situation: that is left as a subsequent matter, to be subsequently dealt with?

A. Yes sir.

Q. You are treating with these expenses just as they are conceded to be correct by Mr. Ludlam, with the exception of the Kansas City terminals?

A. Yes sir.

Q. And that Kansas City terminal situation will be a matter to be subsequently considered?

A. Yes sir.

Q. And you deal with the freight operating expenses, so as to separate, as Mr. Ludlam separates, the taxes and the interest upon the bonded indebtedness?

A. Yes sir.

Q. With that explanation, and with the statement also repeated, that nothing is allowed for extra cost of doing the state business, that Item 2 is fully explained, isn't it?

A. I believe it is.

Q. And if some further is to be deducted from or to enter into the account on the Kansas City terminal situation, it should be put at the foot of the account, just like the blank left for the increased cost of doing the state business?

A. Yes sir.

4697 Q. Without changing your previous figures?

A. Yes sir.

Q. Take Item 3, that is to say "Proportion of the expenses of taxes and rentals": those figures as to taxes and rentals are taken from where?

A. They are taken from Exhibit 5-*a*, as originally filed.

Q. And that was prepared at a time before the statement had been prepared as to the passenger business, so there could be only just an arbitrary setting aside?

A. Yes sir.

Q. And it could not be set aside upon the revenue basis?

A. Yes sir. Those were divided between freight and passenger on train mileage, which was the only basis left for us to use.

Q. At that time?

A. Yes sir, at that time.

Q. And that was arbitrarily done upon the statement?

A. Yes sir.

The MASTER: Exhibit 5-*a* shows that.

Mr. HAGERMAN: Yes sir. They did not have the passenger earnings at that time. That was subsequently prepared as Exhibit 5-*b*.

Q. Upon the revenue basis, what are the respective percentages, as you have already figured them out, of the state and interstate freight earnings, of all the revenue in Missouri?

A. The percentage of interstate freight earnings of the total earn-

ings of the Missouri Pacific Railway is 47.62 per cent. The percentage of state freight earnings of all earnings of the Missouri Pacific is 19.70 per cent.

4698 Q. That 19.70 per cent would be 29.27 per cent of the entire freight, and 19.70 per cent of the entire freight revenue in the state?

A. Yes sir.

Q. And in that way you have figured out, as your Item 3, taxes and rentals?

A. Yes sir.

Q. Item 4 is the interest charge: that in your statement was figured upon an arbitrary basis, before you got the figures for the passenger business?

A. Yes sir.

Q. There seems to be some little difference. Mr. Ludlam I think says the interest charge should be divided upon a net revenue basis, while the value of the property to be assigned to local traffic should be divided upon the gross revenue basis.

You have made the figures here upon the revenue basis, have you?

A. Yes sir.

Q. That is gross revenue?

A. Yes sir.

Q. That is the same basis you used to ascertain the expenses?

A. Yes sir.

Q. Is or is not that interest charge correctly shown by Exhibit 39?

A. Exhibit 39 shows the interest on the mortgage bonds of the company.

4699 Q. And that is the interest which you have distributed in this way?

A. Yes sir.

Q. And the result of the apportionment is, as here set out, 19.70 per cent of all the earnings, which is 29.27 per cent of all the freight earnings?

A. Yes sir.

Q. Item 5: that is the interest or return upon the investment, at the lawful rate of six per cent per annum?

A. Yes sir.

The MASTER: You are passing rapidly over these sheets, and the matters to which you are calling direct attention, I presume, are self-explanatory?

Mr. HAGERMAN: If there is anything you do not understand, I wish to have you ask questions as we go long. I have tried to have these statements gotten up in as simple a way as possible.

Q. Mr. Johnson, I will ask you about that last item, so as to make it perfectly plain:

The 19.70 per cent is the per cent of all the earnings, and that is the equivalent of 29.27 per cent of the freight earnings?

A. Yes sir.

Q. Now take Item 5, interest upon the investment.

For the purpose of this compilation, you have taken the figures fixed by the State Board of Equalization, for taxation purposes, which

it was agreed by stipulation between counsel to be at one-third of the actual value as estimated by the Board?

4700 A. Yes sir.

Q. And if you allowed us the $50,000 for the Pullman cars, which was not called to our attention, it would not make any practical or substantial difference in these figures?

A. $50,000 being the total amount charged?

Q. Yes.

A. It would not make very much difference.

Q. It is so insignificant it would not be worth while changing the figures, would it?

A. No sir.

Q. I wish you would explain to the Court, assuming the valuation of the property in the State was as fixed by the State Board of Equalization, $39,300,157.98, how you get the amount you assign to the local freight as the fund upon which you are entitled to earn a return?

A. We take the difference between the $39,300,157.98, which is three times the amount fixed by the State Board of Equalization, as the value of the property in Missouri, and the amount of $24,778,100, which is the amount of bonds issued on the property in Missouri, and there is left——

Q. That is to say, in Item 4, you have already allowed the interest actually paid upon the mortgages, and therefore from this total valuation in Missouri you deducted the mortgages, so as not to allow it twice?

A. Yes sir.

Q. The total valuation is the $39,000,000, in round numbers?

A. Yes sir.

4701 Q. We have already allowed for interest upon the mortgages, and taking a return upon the $39,000,000 would be much more in our favor?

A. Yes sir.

Q. That leases $14,524,057.98 in excess of the mortgage indebtedness?

A. Yes sir.

Q. How do you apportion that, between state and interstate freight?

A. We apportion that upon a revenue basis, the percentages being 47.62 for interstate freight, and 19.70 for state freight.

Q. The 19.70 is the same as 29.27 per cent of all the freight?

A. Yes sir.

The MASTER:

Q. After paying your interest, and apportioning its proportion to the state freight, as 19.70 per cent, you take the total amount of the indebtedness from the three times the state valuation for taxation purposes, which leaves a certain sum, which represents the excess in value of the property over and above the mortgage indebtedness?

A. Yes sir.

Q. And upon that you say you are entitled to the legal rate of interest, six per cent, and apportion it in the same manner, 19.70 per cent?

Mr. HAGERMAN: Yes, and bear in mind that 19.70 is exactly the same as the 29.27. It is really the same percentage if we are
4702 right. You apply the same percentage from start to finish. That is the thing I would want to impress upon you in this case, that if you adopt our theory you can never deviate on the question of percentage. It is the same thing you apply from the time you start until you get through the case.

Q. Now, let us come to Item 6 decrease on earnings if the Act of 1905 be put in force: You have taken there the figures from Exhibit 5-*a*, and the difference of this deficit $74,699.68, which would have been the additional sum of money you would have lost if this Act had been in force and not enjoined?

A. Yes sir.

Q. That statement was conceded to be correct, with one exception, wasn't it?

A. The tonnage, as I remember it, at that time was figured upon the basis that was made necessary by competitive conditions, while the State claimed that the actual mileage hauled should have been used.

Q. That was the point explained by Mr. Stith, and possibly some other witness.

The MASTER: Illustrated by the Sedalia and Hannibal example.

Mr. HAGERMAN:

Q. The point I wish to get in your mind is that the only difference between the experts for the State and you, on that point, is, that your estimate was made upon the actual mileage, that is, the charge, and the rates were made under competitive conditions; and they claim that it ought to be charged on the basis of the number of miles actually hauled?

A. Yes sir.

4703 Q. And what was the difference in dollars and cents, according to Mr. Taliaferro's figures?

A. The exact difference was $9,658.40.

Q. The result of that would reduce the total deficit shown on page 1, but only to that extent?

A. Yes sir, only about $10,000.

Q. It would leave a deficit of $128,000 before you got to the question of extra cost?

A. Yes sir.

By the MASTER:

Q. There is a difference of only $10,000 between you, on whether you charge the long and the short haul application, or the full mileage?

A. Yes sir.

Mr. HAGERMAN:

Q. So, for the purposes of our statement, if we are right as to this method of division, it is not enough to cut any figure in the case, is it, Mr. Johnson?

A. No sir.

The MASTER: I had an idea there would be a much larger difference than that.

Mr. HAGERMAN: I tried to have him point out what the differences were in regard to these different items.

The MASTER: If that difference was pointed out, it escaped me.

Mr. HAGERMAN: That is correct, isn't it, Mr. Taliaferro?

Mr. TALIAFERRO: Yes sir.

Mr. HAGERMAN:

Q. Mr. Johnson, take Division No. 10 of this exhibit, where we come to the extra cost of doing the state business: you have
4704 made figures there on what has become known in this case (and conceded by the State's experts to be right) as the "Sturgis example"?

A. Yes sir.

Q. The State's experts have all along conceded that when it comes to ascertaining the extra cost, the Sturgis example was the right one to use, whatever basis might be adopted?

A. That was the mathematically correct way of doing it.

Q. You have made your figures upon the basis, first, that there was an excess of fifty per cent only in extra cost of doing the state business: what is the result of that?

A. Paragraph "*b*" explains that. It explains the following example: Upon the basis of its costing 50 per cent more in proportion to earnings, the percentage would be for state freight 38.30 per cent, and for interstate freight 61.70 per cent.

Q. 38.30 per cent for state: you have already allowed in Item 2 what percentage?

A. 29.27.

Q. The difference is what?

A. The difference would be 9.03 per cent.

Q. Then, if it did cost fifty per cent more to do the state than the interstate business, there should be filled in, in that blank on Item 7, as the extra cost of doing the state business, 9.03 per cent of all the operating expenses, or how much in dollars and cents?

A. $379,559.81.

4705 The MASTER: I didn't see that.

Mr. HAGERMAN: You see how he figures out this 38.30?

The MASTER: That is shown in sub-division "*c*."

Mr. HAGERMAN: We have already allowed 29.27 per cent of the operating expenses, in Item 2, the first deduction we make for expenses. That leaves 9.03 per cent in excess of that, that ought — have been allowed, but that has not been allowed. That is the extra cost over what has already been figured here. We could take Item 2, and take 38.30 per cent of the whole thing, at one fell swoop. This

tabulation is made to show how much you should allow, in addition to the 29.27 per cent.

The MASTER: If you assume the 29.27 per cent as already established, then if an added cost of 50 per cent be allowed, the 29.27 per cent becomes 9.03 per cent larger, which would make 38.30 per cent.

Mr. HAGERMAN: That is right. I don't know whether that is plain the way you explain it. This 9.03 per cent would not necessarily show the excess of cost over interstate; but it does show the extra cost we ought to have over and above what we allow. That is, we ought to have 38.30 per cent of all expenses chargeable to local freight. You have given us 29.27.

The MASTER: That is upon the basis of the cost being one and a half times as much for the state as for the interstate, which is an addition of fifty per cent?

Mr. HAGERMAN: Now, do you catch the theory upon which this has been prepared?

The MASTER: I understand.

4706 Mr. HAGERMAN:

Q. Now, Mr. Johnson, take it upon the basis of twice the cost?

A. If the cost of handling state freight is twice as great in proportion to revenue as handling interstate freight, the percentage of operating expenses to be charged to state freight would be 45.29.

Q. You have already allowed 29.27 in Item 2, and what percentage in addition is to be added, so as to get the full benefit of the extra cost?

A. The difference in percentage would amount to 16.02 per cent of all operating expenses, or $673,371.90.

Q. Now, then, upon the basis of three times the cost?

A. The percentage to be charged to the state freight business would be 55.39 per cent.

Q. And the difference between that and the 29.27 already allowed would be what?

A. It would be 26.12 per cent of the total operating expenses, or $1,097,907.25.

The MASTER:

Q. What is that $1,097,907.25?

A. That is the difference between the amount I have already charged as operating expenses, on sheet No. 1, and what ought to be charged as operating expenses, providing the state freight costs three times as much in proportion to earnings as interstate freight.

Mr. HAGERMAN:

Q. That is to say, that the blank left on page 2, Item 7, "Extra cost of state freight over interstate," if the rule of one and a half times the cost is applied, should be filled with the figures $379,559.81?

4707 A. Yes sir.

Q. And if the rule of double be applied to the compara-

tive cost of state and interstate freight, in proportion to revenue, that blank would be filled with the figures $673,371.90?

A. Yes sir.

Q. And if the rule of tripling or multiplying by three to ascertain the cost of transporting state freight over interstate freight be followed, that blank would have to be filled with the figures $1,097,907.25: Is that right?

A. Yes sir.

Mr. HAGERMAN:

Q. Mr. Ludlam's Exhibit 30-*a*, where he re-applied his figures on Exhibit 19, showed that upon the ton mile basis 83.14 per cent of the ton miles was interstate, and 16.86 per cent state ton miles. In which event he said the example was to be done in the same way.

Upon the basis of its costing three times on the ton mile basis, where would we get to?

A. That is three times on the ton mile cost?

Q. Yes.

A. The percentage applying to state freight would be 37.82 per cent.

Q. The difference upon the ton mile basis, assuming you were ascertaining simply the difference upon the ton mile basis, and for no other purpose?

A. The difference then would be 20.96 per cent.

Q. Or what amount in dollars?

A. $881,015.91.

4708 Q. Turn to the next page of this Exhibit 56: suppose you simply ascertained upon a ton mile basis, and deducted what we have already allowed upon a revenue basis, what would be added?

A. That is shown in Paragraph "*b*": the total proportion of operating expenses to go to state business would be 37.82 per cent on the ton mile basis, or 8.55 per cent more than the 29.27 per cent already allowed in Item 2.

Q. That would aggregate what?

A. $359,383.88.

Q. Did you, for the purposes of comparison, and to see where we would come to, figure upon the ton basis? Exhibit 30-*b* showed the tonnage to be what?

A. Interstate, 70.91 per cent.

Q. And the state what?

A. 29.09 per cent.

Q. What difference does that make?

A. The difference is about .2 per cent less than the percentage upon the recenue basis.

Q. What would be the net result, without anything deducted for extra cost, if you divided it upon a tonnage basis, according to Mr. Ludlam's own figures?

A. .2 per cent of all operating expenses would amount to $8,406.64; and this deducted from the deficit shown of $138,062.62, would make the total deficit $129,655.98, without figuring on the extra cost.

Mr. HAGERMAN: I do not know if your Honor catches that or not. It is simply for the purpose of illustration. That is the third theory.

4709 The MASTER: Where did you first make the application of the ton mile basis here on Exhibit 56? Under sub-division "e" of Item 10?

A. No sir, it commences with sub-division "f."

Q. What is "e"?

A. On the basis of its costing three times as much in proportion to earnings.

Q. It begins with Exhibit "f," or rather, sub-division "f"?

A. Yes sir, the ton miles begin with "f."

Q. And the next page shows the calculation worked out on that basis?

A. Yes sir.

Mr. HAGERMAN: Really that "f" should be "e" of Division 11.

Q. Now, coming back to Item 2, the matter we left out, practically the only disputed matter as to what ought to be apportioned to freight expenses is the question of the Kansas City terminals:

Now, in the first place, the expenses of the Kansas City terminals have all been charged to Missouri?

A. Yes sir.

Q. And are included in the total Missouri operating expenses as shown by Exhibit 5-*a*?

A. Yes sir.

Q. The statement Exhibit 11 shows the entire charge for the entire six months of 1905 on account of the terminals at Kansas City: what per cent was charged to freight, and what per cent to passenger expenses?

4710 A. 93.06 per cent of the total operating expenses of the Kansas City terminals was charged to freight, and 6.94 per cent to passenger.

Q. Those are the proper percentages from the figures given in that Exhibit?

A. Yes sir.

Q. That indicates how much for the year was included in freight expenses?

A. The freight proportion?

Q. That is to say, if 93.06 per cent for the last six months of 1905 was charged to freight, that would make the yearly charge to freight how much?

A. It would not make it anything, on the basis of 93.06 per cent. But assuming the statement for six months is one-half of the total operating expenses for the year, the freight proportion of the Kansas City terminal expense for the year would be $783,647.66.

Q. And that would be 93.06 per cent of all the expenses of the terminals for the year?

A. Upon the same basis, yes sir.

Q. How much of that amount, then, was included in the freight expenses which you have allowed upon the basis of revenue, or 29.27 per cent, in Item 2?

A. Do I understand you to mean freight expenses, or state freight?
Q. State freight.
A. 29.27 per cent, of $229,373.67.
Q. In other words, $229,373.67 is the actual amount in
4711 dollars and cents that would be included in Item 2?
A. Yes sir.
Q. In operating expenses in Item 2, on account of the Kansas City terminals?
A. Yes sir.
Q. In Item 2, there is $1,230,311.83 deducted as operating expenses?
A. Yes sir.
Q. Included in that would be, upon this basis $229,373.67?
A. Yes sir.
Q. So the $229,373.67 is the amount we are dealing with, whether that figure should or should not be changed?
A. Yes sir.

The MASTER:

Q. Where do you get that percentage?
A. That is the revenue percentage again.

Mr. HAGERMAN:

Q. It is the state freight proportion of all freight earnings, isn't it?
A. It is the proportion of that cost of the Kansas City terminals which we have included in the entire expense of handling freight; that $783,647.66, expense of Kansas City terminals, is included in the total operating expense of $4,403,000 shown on Exhibit 5-*a*.

The MASTER:

Q. It is 19.70 per cent used, for instance, in Item 5?
Mr. HAGERMAN: The 19.70 per cent is the state freight revenue, from all revenue, and that is 29.27 per cent of all the state revenue.

4712 So that the percentage you use is exactly the same thing. Of course, it is a different per cent of one set of figures from what it would be of another.
If Mr. Johnson has made himself plain about this, he says "These figures indicate that $783,647.66 was in a year included in freight expenses, of which 29.27 per cent, or $229,373.67 was upon this account necessarily included in state freight expenses."
A. Yes, that is the amount which has been charged to state freight on page 1, Item 2.
Q. Now, the net earnings of all the terminals, or work done for other companies, whether in Kansas or Missouri, has gone where?
A. I understand that all the net earnings of the terminals for switching, amounting to $54,802.01,have been credited to the State of Missouri.
Q. None of that has gone to Kansas?
A. That is my understanding, from the testimony.
Q. The tonnage from the Omaha Line, or the lines to the north

and northwest, to and from Kansas City, represent what of all the tonnage handled in the Kansas City terminals?

A. 50,376 tons per month, or 12.32 per cent.

Q. From that tonnage Missouri gets no revenue at all?

A. No sir.

Q. According to the system of keeping the books?

A. No sir.

Q. Upon this arbitrary division that was made?

A. Yes sir.

4713 Q. Taking the figures that Mr. Ludlam has put in his Exhibit 19, as the average amount of earnings per ton, how much would that aggregate in a year, where Missouri would get nothing on earth?

A. The revenue is 83.29 cents per ton on 50,476 tons; the revenue would be $42,041.46 per month, or $504,497.52 per year.

Q. How much of that total revenue did Missouri get?

A. None of it.

Q. There is a slight exception there, of the stuff that originated at Grand Avenue?

A. That amounted to $1,278.27.

Q. And Missouri, in addition, took from Kansas all of the earnings from switching, etc., that were derived from this amount of tonnage?

A. Yes sir.

Q. Dividing these latter earnings from switching this tonnage, on the basis of tonnage as shown by Exhibit 11-*a*, how much in dollars and cents would that have sent to Kansas?

A. $10,960.40.

Q. That arbitrary method of allowing no revenue for Missouri on that business to and from the north, and to and from Kansas City from the north, and charging against Missouri this $10,960.40, was that something that had been adopted long prior to this suit, and irrespective of it?

A. We have always handled this situation at Kansas City in this manner, since we have had a separate division there.

Q. How much of the tonnage of freight east, west and

4714 south of Kansas City, does not cross the state line at all, except the few tracks at the State Line Yards that cross running to the stock yards, and from which Missouri gets all the revenue?

A. 87.68 per cent. That is not right as to all the revenue.

Q. What is right as to all the revenue?

A. We make no effort to show what the earnings for Missouri exclusively would be.

Q. I did not mean for Missouri. But I mean Missouri, as state or interstate, gets her proportion?

A. That would be 87.68 per cent.

Q. And of the 12 per cent that comes from the North to Kansas City, we get no revenue at all?

A. No revenue is assigned to Missouri.

Q. And that revenue to the company, according to the figures given by Mr. Ludlam on his Exhibit 19, would be over $500,000 per year?

A. Yes sir.

Q. So the theory upon which these accounts have been kept, whether right or wrong, is that matters were about equalized, and this arbitrary basis was used for the purpose of making these charges and credits? That is the theory upon which the accounts were kept?

A. I would not say that.

Q. What would you say?

A. Because we have had no desire, in ascertaining the expenses of the Kansas City terminals, except for the purposes of
4715 this case. We felt it was practically correct and fair to assign the operating expenses to Missouri, giving her these earnings from switching, because we believe that the cost of handling the business from Kansas City, Kansas to the north would be too small to attempt to determine.

Q. I did not mean by my question to imply that you had made the division upon that theory, having in mind this question of state and interstate business, as regards the question involved between the railroad companies and the State of Missouri, but, generally, in doing your business, and having occasion for this kind of a law-suit to arise, you did make that division upon the theory of equalization, thinking it right?

A. We made that division because we thought it right.

Q. And you still think it right?

A. I still think it is right.

Q. According to Exhibit 11, the total mileage of these terminals is 16.92 miles, of which 12.36 miles, or 73.05 per cent, are in Missouri, and 4.56 miles, or 26.95 per cent, are in Kansas?

A. That is the main line mileage.

Q. If you adopt that as the basis of division, if you take the mileage as the basis of division, and cut out all you say you think is fair, and if you divide that on the mileage basis, where does it lead us, and what is the difference in Missouri?

A. $61,816.20 less in the operating expenses on account of state freight.

4716 Q. That is to say, inasmuch as the mileage in Kansas is 26.95 per cent of the whole, you would take out of this $229,373.67 that per cent?

A. Yes sir.

Q. And that equals $61,816.20, and that would still leave a very large deficit before you get to the increased cost of doing the state business: How much would it leave, in round numbers?

A. $76,000.

Q. Traffic to or from Kansas City, Mo., not destined over the Omaha Line, or going north, is what per cent of the whole?

A. 48.61 per cent.

Q. That makes no subetantial use of those terminals?

A. No sir.

Q. Now, the passenger business: something was said about some of these tracks over in Kansas being used for making up some of the passenger trains: what was the percentage of all terminal expenses you allowed to passenger expenses, in the way you kept your books?

A. 6.94 per cent.

Q. So that does not enter, to any substantial amount, into this calculation?

A. No sir.

Q. What are the respective sizes of these two cities, Kansas City, Kansas, and Kansas City, Mo., as shown by the census?

A. The population of Kansas City, Kansas, is 51,418; and the population of Kansas City, Mo., 163,752. Or, Kansas

4717 City, Mo., is over three times as large as Kansas City, Kansas.

Q. Now, let us figure on another way: 12.32 per cent of the entire tonnage handled by the Kansas City terminals is stuff over the northern lines, either originating or terminating at one of the Kansas City's, is it?

A. Yes sir.

Q. 9.62 per cent is the tonnage that goes over the northern lines, which passes through Kansas City, not originating there?

A. Yes sir.

Q. So that makes 21.94 per cent of the entire tonnage, which uses no portion of the Kansas City terminals, but goes on that North Line, or over the state line, eliminating that slight crossing of the state line at the State Line Yards?

A. Yes sir.

Q. Dividing that upon the mileage basis of 26.95 per cent, and what per cent of the expenses would that make?

A. 5.91 per cent.

Q. And that would be, in dollars and cents, to be deducted from your $229,373.67, how much?

A. $13,555.98.

Q. And that allows nothing for the $10,960.40 in Missouri for the net revenue received from switching: is that correct?

A. Yes sir.

Q. The table on which this tonnage was prepared was presented today as Exhibit 11-*a*?

A. Yes sir.

4718 Q. And you have tabulated the result of it here in this Exhibit 56?

A. Yes sir.

Q. The total tons handled at the Kansas City terminals amount to 409,500 for the month of October?

A. Yes sir.

Q. And these percentages are carried out and shown in paragraph "d" of Exhibit 56?

A. Yes sir.

Q. The total tons consigned to or from either Kansas City and the Omaha Line is about what percentage of all the tonnage that is consigned to or from both the Kansas City's, and other points?

A. You mean by "other points," or passing through Kansas City?

Q. That is to say, your 12.32 is the per cent of the total tonnage used at those terminals, which either starts from or terminates at one of the Kansas City's, and has come from, or gone over, the Omaha Line?

A. Yes sir.

Q. Now, what percentage is that of all the business that is handled to or from the Kansas City's? That eliminates the through business. You have it tabulated here at about 20 per cent.

A. That is estimated to be about 20 per cent of the total tonnage.

Q. The total is 251,984, and that is about $50,000?

A. Yes sir.

4719 Mr. LADD: If the Court pleases, it is obvious that we cannot enter upon Mr. Johnson's cross-examination until our experts have had time to study these exhibits, and also examine some records at St. Louis. That is what Mr. Taliaferro tells me, and it has seemed so to me.

The MASTER: Have any additional records entered into these exhibits, or into his testimony, that have not heretofore been used in this case at all?

Mr. LADD: Yes sir.

Mr. HAGERMAN: What?

Mr. LADD: The number of freight trains on the Eastern Division.

Mr. HAGERMAN: That is compiled from the time tables.

Mr. LADD: I want to know what those freight trains are, and what they amount to. We have to know. So far as the tonnage of trains was concerned, and the number of trains, any calculations which we made upon that basis were made upon Exhibits which they themselves put in, as your Honor will remember.

Now, they have changed their exhibits, and say there were more and other trains, and tell us in one of these exhibits the number of local trains, and the number of through trains.

Mr. HAGERMAN: I object to that statement. We have not changed an exhibit. We took the number of trains from the time table you put in.

Mr. LADD: We took the relative tonnage of the local and through trains from an exhibit which they put in them-
4720 selves, offered during the course of Mr. Doddridge's testimony.

Mr. HAGERMAN: I do not object to anything you assume, but I object to the statement as to changing any exhibit.

Mr. LADD: I say these are new exhibits, and it opens up something we have not had an opportunity to examine into at all.

The MASTER: The only question in my mind in respect to that matter is about this: In the first place the State came forward and made certain exhibits of various matters, and introduced quite a number of additional exhibits, pending the examination and cross-examination of the witnesses in chief. Now, in answer to the case made by the Complainants, the State comes forward on its part, after an examination of all the books and records that they found necessary to examine, from the statements made by the Complainants in the first instance, and submitted a large number of exhibits.

Now, to meet the various positions taken by the State's experts, and as illustrated by the exhibits filed by them, the Complainant comes forward with the exhibits that have been testified to this

afternoon. Now what new matter has been brought out in these new exhibits?

Mr. LADD: That is, certain of the exhibits. It would not require an examination of the books for the study of all these exhibits put in today, but as to certain exhibits it would.

The MASTER: Let us see what they are. What new matter has been introduced by the exhibits or testimony this afternoon?

Mr. LADD: I cannot state fully. I have not been able to even read all these exhibits.

4721 Gen. HADLEY: Cannot we look at them overnight and see.

Mr. LADD: Exhibit 36-*b*, for instance.

The MASTER: I think you should have proper time, Mr. Ladd, to make an examination of the books and records in St. Louis, if you desire, and even to have the books and records brought here, in respect of matter that is to meet any new matter brought forward this afternoon.

Mr. LADD: I do not see that we can have them brought here.

Mr. HAGERMAN: Anything you ask for you can have brought here.

The MASTER: In so far as this matter is rebuttal, I do not think you are entitled to that at all.

Mr. LADD: Whenever any time has been asked by the other side, for any reason, we have accepted their reasons as well founded, in good faith, and have never objected to it.

The MASTER: There has been a spirit of great liberality all through, Mr. Ladd.

Mr. LADD: I would not ask for time, unless I thought we probably needed it. We can go over these tonight, and say more definitely than I can now, just what we need.

Mr. HAGERMAN: I do not object to their having the time they want, or any book or paper that they want here. For instance, Mr. Ladd has not read Exhibit 36-*b*. That shows on its face that those trains are shown by a certain time-card, one of which is in evidence. The only other thing I can imagine is the tonnage at the Kansas City terminals, but that is a matter that the State's experts went into in giving an estimate.

4722 I don't object to his getting time, if he needs it, but I thought we could facilitate matters by having him look over it tonight and see what he needs.

The MASTER: There are enough real differences between counsel, without stopping to consider imaginary ones. I think counsel for the State are fairly entitled to the balance of this afternoon and tonight, in order to ascertain what they really need, in order to determine what they do want, before they can make any request or application for what they do want. I simply intimated this, and I do not want you to understand that I am denying your application for time before it is made,——

Mr. HAGERMAN: And I do not want him to understand that we are denying him time, if he wants it.

Mr. LADD: And I do not want counsel or the Master to think I am asking for time if I do not need it.

The MASTER: I see the Master is poorly fitted for talking against both counsel. What I want to say, if you will permit me, is this: Insofar as this testimony is rebuttal testimony, I do not think counsel for the State is entitled to additional time to examine books, or have witnesses here, because it is purely rebutting testimony. But, insofar as asking for reasonable time for preparing to cross-examine the witness on the stand, a few hours' time you are entitled to and will always get when you ask for it. But so far as any new testimony, or papers introduced, reasonable time ought to be given you in respect of that new matter, in order that you may prepare yourself for cross-examination.

Mr. LADD: So far as the witness' testimony consists of
4723 mere calculations based upon figures already in evidence, I do not think we ought to ask for additional time, except just enough to look over them.

At this point, the further hearing of testimony herein was adjourned to tomorrow, Tuesday, March 26th, 1907, at ten o'clock A. M.

4724 KANSAS CITY, MO., *March 26th*, 1907.

Met, pursuant to adjournment as above, in the Federal Building at Kansas City, Mo., on Tuesday morning, March 26th, 1907, at ten o'clock in the forenoon.

Present, parties as before.

The following proceedings were had:

The MASTER: Proceed with the cross-examination, Mr. Ladd.

Mr. LADD: I cannot go on with the cross-examination of Mr. Johnson this morning. I have not had time to examine the Exhibits put in yesterday. I worked last night until the lights went out in my office, and had time to look over only two, and part of the third.

The MASTER: Call your next witness, Mr. Hagerman:

HUBERT ROTH, Recalled, on behalf of the complainant, testified as follows, to-wit:

Direct examination.

By Mr. FRANK HAGERMAN:

Q. You, with myself and Mr. Johnson, have gone through these records and papers, with the result that you and Mr. Johnson have gotten up these statements, with such assistance as I could render you?

A. Yes, sir.

Q. You have heard Mr. Johnson's testimony here?

A. Yes, sir.

4725 Q. And are these statements that he has produced correct or not correct?

A. They are correct.

Q. Referring to Exhibit 36-*b*, Mr. Johnson said he took your

statement as the basis of his assumption therein as to the number of trains: you made that tabulation?

A. I made that tabulation.

Q. That was a tabulation you made, and you submitted your figures on that to him?

A. Yes, sir.

Mr. HAGERMAN: That is all I wish to ask, Mr. Roth.

The MASTER: Have you any questions to ask Mr. Roth, Mr. Ladd?

Mr. LADD: No, sir. I doubt if I shall want to ask Mr. Roth any questions except as to this Exhibit 36-*b*.

4726 W. B. DODDRIDGE, Recalled, on behalf of the complainant, testified in rebuttal as follows, to-wit:

Direct examination.

By Mr. FRANK HAGERMAN:

Q. You were on the stand before in reference to this Kansas City Terminal situation?

A. Yes, sir.

Q. One subject referred to by Mr. Carson yesterday, on which I would like you to give an estimate, is this: In speaking of the value of the terminals, the part here in Missouri, and in Kansas, he expressed in per cents what he thought was the value of the part over in Kansas: What is your judgment about that?

A. The portion of the terminals located in Kansas is quite a small proportion in value, as compared to that portion of the terminals lying in Missouri.

Q. You went into the subject pretty generally on your previous examination. I just want to get your idea of the statement of Mr. Carson that the value of the portion over in Kansas was about ten percent of the whole. What do you say? Do you agree or differ with him?

A. I was going to say ten per cent of the whole, I should think would be a fair proportion.

4727 Cross-examination.

By Mr. JOHN KENNISH:

Q. Mr. Doddridge, you testified before in this case to the matters you have testified to today, didn't you?

A. Only in a general way, I think.

Q. I believe you testified first that you thought it would be a fair apportionment of the cost to assign to Kansas about 25 percent of the Kansas City Terminal expense, and the balance to Missouri?

Objected to by Counsel for Complainant as not cross-examination. Objection overruled.

Q. That is what you first testified to, I believe, didn't you?

A. My recollection is that my estimate was indefinite. It was a guess. If I recall the words I used, they were a minimum of ten percent, or a maximum of 25 percent would be the proportion that

should be charged to Kansas; or would be what should be charged to Kansas. That is my recollection. Of course, the testimony will show what I said.

Q. After giving that testimony, you went on the stand again and modified it, making it even less than your first testimony, didn't you?

A. I do not recall distinctly.

Q. Do you remember that you said you had investigated the situation since you gave your first testimony, and modified your testimony as first given on that question?

4728 A. I think now that ten per cent would be a fair apportionment.

Q. What do you say now would be a fair apportionment?

A. I say now I think ten per cent.

The MASTER:

Q. Ten per cent of the total cost of conducting the Kansas City terminals, it would be fair to charge against states outside of Missouri, and 90 per cent to Missouri?

A. Yes sir.

Mr. KENNISH:

Q. You have not given any particular attention to the matter of terminals, as Mr. Roth and Mr. Johnson have done?

A. No sir, only hearing the results of the estimates that have been made, and looking the terminals over, with a little better knowledge of the ends sought in making a division of the expenses.

Mr. KENNISH: If the Master pleases, I should like permission to ask Mr. Doddridge a few questions that probably should have been asked him on his cross-examination, in the first place; it is a little out of order now.

The MASTER: I suppose there will be no objection to that.

Mr. KENNISH:

Q. I believe you are an ex-General Manager of the Missouri Pacific system, Mr. Doddridge?

A. Yes sir.

Q. When did you cease your connection with the Missouri Pacific Railway Company, in that capacity?

A. In the spring of 1900.

Q. You live now in Kansas City, I believe?

A. Yes sir.

4729 Q. Have you been present at practically all of the hearings in these Maximum Freight Rate cases?

A. Yes sir.

Q. You were at Chicago during the hearing of the Burlington case?

A. Yes sir.

Q. But since that you have been present at all of the hearings, haven't you?

A. All the hearings since the 14th of November, 1906.

Q. You were here at Kansas City when the Burlington case was heard, in part?

The MASTER: That is repetition, Mr. Kennish. He testified that on cross-examination before.

Mr. KENNISH:

Q. Since the 14th. of November, I believe you have been at all the hearings, whether of the Burlington, the Wabash, or the Missouri Pacific cases?

A. Yes sir.

Mr. HAGERMAN: I think it was the last day of the Burlington hearing at Kansas City that Mr. Doddridge attended.

Mr. KENNISH:

Q. You have now no connection with the Missouri Pacific Railway system, in any way?

A. None whatever.

Q. Now any other railway company?

A. No sir, I cannot say I have.

Q. How did it come that you have been present at all those hearings? Were you employed by the railroad company?

A. I was requested by the railroad company to attend the hearings.

Q. What railroad company?

4730 A. The Missouri Pacific.

Q. Who requested you?

A. Col. Clardy.

Q. The solicitor of the Missouri Pacific Railway Co.?

A. Yes sir.

Q. What arrangement did he make with you as to compensation?

A. He didn't make any.

Q. Or as to your expenses?

A. He has paid my expenses?

Q. You are engaged in business here in Kansas City, aren't you?

A. Yes sir.

Q. Do you state to the Master that you have had no arrangement whatever with the Missouri Pacific Railroad Company for attending all of these hearings, and neglecting your own business, as to the compensation you are to receive?

A. No sir.

Q. You expect to be paid for your services?

Mr. HAGERMAN: He ought to be.

A. I do.

Mr. KENNISH:

Q. And you say the matter of the amount of the compensation has not been mentioned?

A. No sir.
Q. What do you intend to charge them?

Objected to as immaterial.
Objection sustained.

Q. Do you say the subject has not been discussed or referred to, as to what your probable compensation shall be?
4731 A. No sir.
Q. Not with any officer of the Railroad Company?
A. No sir.

Mr. LADD: I don't want to press the matter, but Mr. Ludlam was asked that same question.

The MASTER: Mr. Ludlam had a contract, and he was asked what that contract was.

Mr. LADD: I understand that he was going to charge fifty dollars a day; that he considered that reasonable.

Mr. KENNISH:

Q. Was the question discussed, or referred to in any manner whatever, between you and Col. Clardy, that it would be better that you should not fix in advance the amount of compensation you were to receive?

A. No sir. If I am permitted to say a word, I think I could make it clear what you are getting at.

The MASTER: You are permitted.

Mr. KENNISH:

Q. Will you answer that question direct, whether or not the subject of the compensation you were to receive for your services the last six months, or for the time you were to serve as expert for the railroad company, was mentioned in any manner, and whether it was referred to?

A. Specifically, I will say No.
Q. "Specifically"; why do you say that?
A. I say that because, of course, I expect to be paid. I was connected for a great many years with the Gould people, in their service. There never has any question arisen between us as to compensation for any service I ever rendered. And Col. Clardy requested me to attend these hearings, for the purpose of giving them
4732 the benefit of my judgment and advice as to how to get at the facts that they were seeking to bring out.

Q. Didn't Col. Clardy say to you that you would be paid, or well paid, for your services, or refer to the matter of your compensation in any way?

A. No sir, he did not say I would be well paid. The fact of the question of payment has not been discussed between us, with the exception of expenses. I said to Mr. Clardy I should like to have them pay me my expenses going along. Of course, when we began this thing, I expected it to last two weeks and not over that.

Q. What reason have you to expect payment for your services?

A. They have always heretofore paid me.
Q. Heretofore?
A. Yes sir.
Q. Since you left their service?

Mr. HAGERMAN: I can relieve your mind. The lawyers will try to make them pay Mr. Doddridge for his services.

Mr. KENNISH: I am trying to show the witness' interest, if any, and that is the object of the cross-examination.

A. The question of expenses came up, and I asked for the payment of my expenses going along.

Q. But you have been well paid for all your services rendered to the Missouri Pacific since you ceased your official connection with the company, haven't you, Mr. Doddridge?

A. I haven't done any work for them, excepting in a few cases, and that was gratuitous. For instance, I have acted as
4733 witness in quite a number of cases where a dispute or controversy arose out of some old contract, which I was connected with the road. In those cases they have not paid me anything other than my expenses. But in this case, when this first came up I had no idea that Col. Clardy supposed it was going to run over three or four months, or was going to take that much time. I supposed a few weeks would cover it, probably.

Q. Then heretofore you say you never received anything but your expenses for what services you rendered to the Missouri Pacific Railway Company.

A. For acting as a witness.

Q. That is all you have acted as in this case, isn't it?

A. Something more than that. Of course, I have attended these hearings, as I stated before.

Q. But you do expect to be compensated, outside of your expenses and witness fees?

A. I certainly do.

Q. What do you think would be reasonable compensation in that matter?

Objected to as incompetent.

Mr. KENNISH: I do not think it is incompetent to ask what he considers "reasonable."

The MASTER: In the absence of any understanding between the witness and the litigant, the expectation of the witness might meet with very serious disappointment, so far as I know, and I cannot see why it should be material to say what his expectation of
4734 compensation would be, in the absence of an agreement.

Mr. KENNISH: I should think that what he regards as reasonable compensation would certainly have a bearing on his interest as a witness in this case. You may readily see that in the absence of an agreement, they can evade the very question.

The MASTER: You may show by the witness, if you can, that there was a reason for not fixing his compensation, if any. But, upon the testimony of the witness that he was simply requested by his old employer to attend these hearings, and give them the benefit

of his former experience and service, and testify as a witness in the case, without any agreement or understanding whatever as to compensation for such services, I do not think the witness' expectation as to the amount of compensation should at all control the litigant in the case.

Mr. KENNISH: It is not a question of how much he will get. He will say he did in fact expect to be compensated, and it is the amount of the expected compensation that will affect his credibility as a witness. And it is competent to show what the amount is that he expects to receive.

The MASTER: I do not take that view of it. I think it is clearly incompetent.

4735 Mr. HAGERMAN: That is all I have.

The MASTER: That closes your case, then, except for the re-examination of Messrs. Johnson and Roth.

Mr. HAGERMAN: Yes sir.

Mr. LADD: In order that we may go on with the cross-examination of Messrs. Johnson and Roth, Mr. Taliaferro must go to St. Louis to examine some papers and records there.

The MASTER: There was some new matter brought out in some of these exhibits, but as compared with the whole amount of the testimony, that part is inconsiderable.

Mr. LADD: Wouldn't it be better, and more satisfactory, and more coherent, and more connected (I cannot think of any more adjectives), to examine Mr. Johnson as a whole, at one time.

The MASTER: I think decidedly not. Every hour's time we put in this case is two hours' time gained; because every continuance brings up something new, and something additional, and results in further delay. I want you to go on with the cross-examination, so far as you may fairly to yourself and the interest you represent. And let it be definitely understood what subjects you wish to consider further, after opportunity is given you to make such examination of the books as you may desire. But there is no reason why we should not go on with the cross-examination up to that time; after giving you reasonable time to consider those exhibits, of course. You are entitled to that.

Mr. LADD: I shall feel myself very much hampered.

4736 At this point, in order to give counsel for the Defendants opportunity to examine Exhibits offered by Complainant at this sitting, the further hearing is adjourned, by consent of counsel, to tomorrow, Wednesday, March 27th, 1907, at ten o'clock, A. M.

KANSAS CITY, *March* 27, 1907.

Met pursuant to adjournment as above on Wednesday morning, March 27, 1907, in the Federal Building, Kansas City, Mo. Present, parties as before.

The following proceedings were had.

Counsel for the Defendants announcing that it would be impossible to proceed with the cross-examination of the witnesses Johnson and Roth, without further opportunity to examine books and rec-

ords, and the exhibits offered, a further adjournment was, by consent, taken to Monday, April 1, 1907, at ten o'clock, A. M., then to be resumed in the Federal Building, in Kansas City, Missouri, at which time and place parties will attend without further notice.

4737 KANSAS CITY, MO., *April 1st*, 1907.

Met, pursuant to adjournment as above, on Monday, April 1st, 1907, at ten o'clock in the forenoon of said day, in the Federal Building, Kansas City, Missouri.

Present: Hon. F. L. Schofield, Special Master. Mr. Frank Hagerman appeared in behalf of the Complainant. Attorney General H. S. Hadley and Mr. S. B. Ladd appeared in behalf of the Defendants.

The following proceedings were had:

Counsel for Defendants announcing that it would be impossible to proceed with the cross-examination of the witnesses Johnson and Roth without further opportunity to examine papers, etc., a recess was here taken until two o'clock P. M.

After recess the following proceedings were had:

Cross-examination of F. P. JOHNSON.

By Mr. LADD:

Q. Mr. Johnson, I wish you would take Exhibit 19 offered by the State:

I will ask you if you have attended all the hearings in the three cases of the Missouri Pacific, the Wabash and the Burlington Railroads?

A. No sir, not all of them.

Q. What were there that you have not attended?

A. I failed to attend the first hearing of the Burlington or any of the preliminary hearings in the Missouri Pacific cases.

4738 Q. You mean the hearing of the Burlington case in Chicago?

A. Yes sir.

Q. You attended all the hearings of the Wabash case in St. Louis?

A. I attended one week in the hearing in the Burlington case at Chicago, and all of the hearings in the Wabash case at St. Louis.

Q. Do you remember Exhibit 19, the exhibit which has been offered in this case by the State as Exhibit 19, and which was offered in the Wabash case?

A. I believe that practically the same figures were offered in the Wabash case.

—. Do you remember what exhibit it was, No. 19 wasn't it?

A. I do not know.

Q. That was offered in the Wabash case before any of the hearings in the Missouri Pacific?

A. Yes sir, before any of the hearings in the Missouri Pacific.

Q. That was in December, or early in January?

A. I cannot say as to the date.

Q. Do you remember when the Missouri Pacific hearings began?
A. I believe they began sometime in January.
Q. My recollection is about the 10th of January.
A. It was about the middle of the month.

The MASTER: It was January 14th.

4739 Q. You remember that just after this Exhibit 19 in the Wabash case was offered you were furnished a copy of it by Mr. Minnis?

A. Yes sir, we were furnished a copy of it by you.

Q. The fact is, you have forgotten; but there was one offered in the Wabash case, and afterwards it was changed. I told you I would give you one of these, but Mr. Minnis spoke up and said he had given you one, and you said that was so and we need not take the trouble: do you remember that?

A. I thought Col. Clardy had asked you for the exhibit, and you were to give it to him, through me.

Q. Well, any way, you got it, soon after it was offered in the Wabash case, did you?

A. Yes sir.

Q. You heard the witnesses for the State testify how this Exhibit 19 was prepared, and the methods by which they got their information on which it is based, didn't you?

A. Yes sir.

Q. That they examined the records of the Missouri Pacific which your people turned over to them, and, wherever it was necessary, the way-bills: that is right, isn't it?

A. Yes sir.

Q. And that they, in that manner, got the amount of revenue on every individual shipment: that is right, isn't it?

A. Yes sir.

Q. Since you got this exhibit, Mr. Johnson, have you or any of the people in your office gone over these records and way-
4740 bills as they did, for the purpose of ascertaining whether the figures shown in Exhibit 19 are correct or incorrect?

A. I cannot say as to whether they have checked the work up in detail or not. I know the matter has been looked up, that the statement has been examined, and some of the figures verified, but whether they have gone into it to the extent that it was done by the State, I can not say.

Q. Do you know that this Exhibit 19, from the examination which you have made of the way-bills and records from which it is made, or which you have had made from the records and way-bills on which it is based, is incorrect in any particular?

A. We know that the results shown in Exhibit 19 do not agree with our records.

Q. What records?

A. With the figures shown in Exhibit 5-*c*. And we also know that the method of handling the livestock of Kansas City has not been treated the same by both the State and railroad company.

Q. Are these the only reasons why you say Exhibit 19 is not correct?

A. These are the only reasons I know of.

Q. You say Exhibit 19 is not correct because the livestock handled at the Kansas City stock yards has been treated in this Exhibit as interstate business?

A. I say that it does not agree with our record to that extent, as shown by Exhibit 5-*c*.

Q. You say that it does not agree with your records to this extent: that the livestock handled at the Kansas City Stock yards is
4741 treated in Exhibit 19 as interstate traffic, while is your records you treat it as state traffic?

A. That is one of the reasons.

Q. The other reason is, as I understand you, that it does not agree with any revenue from Business, as shown by Exhibit 5-*c*: is that right?

A. Yes sir.

Q. Exhibit 5-*c* was taken by Mr. Taliaferro from your books, wasn't it?

A. That is my understanding.

Q. He had it here at the time it was referred to, in pencil, didn't he, these figures?

A. Yes sir.

Q. And at Mr. Hagerman's request, he had it put in type-writing as it appears here, and it was offered in connection with his cross-examination as Exhibit 5-*c*: that is right, isn't it?

A. Yes sir.

Q. And these figures which appear in Exhibit 5-*c*, showing the amount received for state freight and interstate freight, in each month, and the total in each month—those figures were taken as you understand it, right from your books: they were the result of any compilation, or from figures furnished by your people?

A. As I understand it, they were the abstracts made from our record.

Q. These identical figures, Mr. Johnson, were the figures prepared by you or some of your people, weren't they?

4742 A. By some of our people.

Q. This purports to be a summary; these are total figures, and these total figures were prepared by your people, and copied off by Mr. Taliaferro: isn't that right?

A. That is my understanding.

Mr. HAGERMAN: Exhibit 5-*c* is a monthly detail of Exhibit 5-*a*, so far as the earnings are concerned, giving it by months:

Isn't that right, Mr. Johnson?

A. Yes sir.

Q. The totals correspond with Exhibit 5-*a*?

A. Yes sir.

Mr. LADD:

Q. You say—I want to be sure that I understand you—that Exhibit 19, so far as you know, may be correct, *if* it were not for the

circumstances: that in that exhibit the business in and out of the Kansas City stockyards has been treated as interstate business, and that the footings for the month of October do not agree with Exhibit 5-*c*: is that right?

A. Well, the fact that the figures shown in Exhibit 19 do not agree with Exhibit 5-*c* is one reason why I believe that Exhibit 19 is not correct.

Q. Have you any other reasons?

A. I won't say that that is all of the reasons.

Q. What other reasons have you?

A. I haven't any. There may be others.

Q. I thought you said that so far as you know no one in your office has gone through these records, within the last three
4743 months, since Exhibit 19 came into your possession, or the way-bills upon which the records are based, to either verify or show the want of accuracy in Exhibit 19, so far as it purports to show the operations of the Missouri Pacific in the freight business in Missouri for the month of October, 1905?

A. Not since Exhibit 19 came into your possession.

Q. There was offered in connection with your testimony last week, Exhibit 19-*b*: will you please turn to it?

A. I have it.

Q. You testified to the correctness of this Exhibit 19-*b* last week, when it was offered in connection with your testimony, didn't you?

A. Yes sir.

Q. In the early part of this Exhibit 19-*b*, you say that Exhibit 5-*c* is a statement of the actual state and interstate earnings, exclusive of switching and demurrage, for each month of the year 1905. This statement is made for the purpose of showing that every figure found in Exhibit 19 for some reason or another must be incorrect: Now, you show by Exhibit 19-*b* that, according to Exhibit 5-*c*, the total freight earnings in the month of October, in Missouri, were $497,993.76.

A. Yes sir.

Q. Then you say that the total freight earnings in Missouri, for that month, according to Exhibit 19, are $508,542.46, don't you?

A. Yes sir.

Q. From which it appears that the total freight earnings for the month of October, as shown by Exhibit 19, were $10,-
4744 548.70 greater than those shown by Exhibit 5-*c*: is that it?

A. Yes sir.

Q. You say also that Exhibit 19 shows interstate earnings for that month of $377,704.90, and Exhibit 5-*c* shows the interstate earnings to be $351,017.74?

A. Yes sir.

Q. Being a difference on the interstate earnings in favor of Exhibit 19 of $26,687.16: is that right?

A. Yes sir.

Q. You also say that Exhibit 19 shows the state earnings for that month to be $130,037.56; and, according to Exhibit 5-*c*, the state

earnings were $146,976.02; leaving a difference in favor of Exhibit 5-*c*, on the state earnings of $16,138.46: is that right?

A. Yes sir.

Q. Now, Mr. Johnson, Exhibit 19-*b* shows the interstate earnings larger than Exhibit 5-*c*, doesn't it?

—. Exhibit 19 shows the interstate earnings to be larger than Exhibit 5-*c*.

Q. In Exhibit 19-*b*, did you call attention to the fact that in Exhibit 19 the business to and from the Kansas City stock yards had been treated as interstate business? Do you say anything about it in Exhibit 19-*b*, as a partial explanation?

A. No sir, I don't believe we have mentioned that at all in Exhibit 19-*b*.

Q. It is a fact that in Exhibit 5-*c* the business to and from the Kansas City stock yards is treated as state freight, isn't it?

4745 A. Yes sir.

Q. And you do not mention that difference in 19-*b* to account partly for the difference in the figures, do you?

A. No sir.

Q. That had been fully explained by Mr. Taliaferro or Mr. Ludlam in their testimony, before you offered this Exhibit 19-*b*?

A. That difference in the method of handling those figures had—Yes sir.

Q. Hadn't it been fully explained by Mr. Ludlam in answer to questions put to him by Mr. Hagerman in cross-examination, that they had treated it as interstate business, and that accounted for the difference, to a certain extent; and that the stock yards business amounted to $10,423.35: I ask you if that had not been fully explained by Mr. Taliaferro?

A. I believe it had.

Q. But if you did not refer to it in Exhibit 19-*b*?

A. No sir.

Q. Mr. Johnson, suppose you deducted the $10,423.35, revenue from the live stock business, from the $377,704.90, being the total interstate revenue shown in Exhibit 19, would not the result be $367,281.55?

A. (After calculating.) Yes sir.

Q. The figures in Exhibit 5-*c* for the interstate earnings in the month of October are $351,017.74, aren't they?

A. Yes sir.

Q. Now, the difference between $351,017.74 and $367,281.55 is $16,263.81, isn't it?

A. Yes sir.

4746 Q. That is a difference that is still left, isn't it?

A. Yes sir.

Q. I will ask you now if you did not hear Mr. Ludlam and Mr. Taliaferro testify that in the preparation of this Exhibit 19, and in the showing of the revenue from interstate freight, nothing had been deducted for bridge toll, transfer charges, and claims, because it would take so much time they couldn't possibly do it, and, therefore, this revenue included those things?

A. Yes sir.

Q. Did you say anything about this in this Exhibit 19-*b*?

A. No sir, I have not mentioned that at all in this exhibit.

Q. Now, I will ask you if the bridge tolls, transfers and claims which are included in the gross revenue from the interstate business, and which are not included in the revenue from interstate freight, as shown in Exhibit 5-*c*, would not amount to substantially that sum of $16,263.81?

A. I haven't any idea what that amounts to.

Q. If the actual amount—we cannot tell exactly what it was—but if the actual amount of the bridge tolls, transfers and claims, which are included in this gross amount, as shown in Exhibit 19, were taken out of that, do you think there would be any substantial difference between the figures of the two exhibits?

A. I would not like to answer that question with any degree of accuracy, because I would not be in a position to say; but it
4747 does not look to me as if it would amount to as much as that.

Q. You say you have no idea how much the bridge tolls would amount to, on the average, per month?

A. No sir, I would not like to say, off-hand.

Q. Have you asked Mr. Roth?

A. No sir, I have not asked him.

Q. Would he know?

A. It is just possible, since he made that deduction from the original statement 5-*a*, it may be that he would understand and know.

Q. The state earnings as shown on Exhibit 19 for October are $130,837.56; that is right, isn't it?

A. Yes sir.

Q. If you add to that the stockyards' earnings $10,423.35, and if you take it away from the interstate earnings it must be added to the state earnings, you have a total of $141,260.91?

A. Yes sir.

Q. Now, what is the difference between that and the revenue shown in Exhibit 5-*c*?

A. $5,715.11.

Q. Do you regard that as a large variance?

A. That would make a difference of about four per cent *on* the month of October.

Q. Mr. Johnson, is it possible that the figures compiled and the examinations made by the State's experts were more careful, and more accurate even, than those of your own force, and that their figures may be right and yours wrong?

4748 A. That is hardly possible, because our figures were considered right, as I understand it, and so testified to by the State's experts, with the exception of this live stock business, which appears to be a matter of opinion.

Q. But you have not undertaken to go through these records and way-bills, the way the State's experts did, and take each shipment, shipment by shipment, getting the exact amount which was received on each shipment, adding them together and in that way getting the total revenue, have you?

A. We did that for the entire two years.

Q. But you have not undertaken to do it since, have you?

A. No sir, not to my knowledge.

Q. Mr. Johnson, do you know how your people treated business which originated in the state, and while on its way to another point in the state went out of the State? In compiling the earnings did they treat that as state or interstate business?

A. My understanding is that all such shipments as that were treated as interstate business.

Q. That is your understanding?

A. Yes sir.

Q. That was always done?

A. That was done for the purposes of this suit, yes sir, in compiling the figures for this suit. We have had no occasion to compile figures as between state and interstate business, with this exception.

4749 Q. The two matters which you have referred to, in which you say Exhibit 19 is inaccurate, if it is inaccurate at all, were fully explained by Mr. Ludlam, weren't they?

A. Those two items which you mentioned, and which I mentioned, were fully explained by Mr. Ludlam—or one of the witnesses for the State. But I do not say those were the only two reasons why Exhibit 19 was inaccurate?

Q. What other reason is there?

A. The fact that the earnings, both state and interstate, in Exhibit 19 do not agree with Exhibit 5-*c*, is evidence that one or the other is incorrect.

Q. That is all. The two reasons which you have given, and the further reason that the figures do not agree with those on Exhibit 5-*c*: is that it? Those are the only reasons you have?

A. Those are the reasons we have—yes.

Q. Mr. Johnson, if the items of bridge tolls, transfer charges, claims, and similar items made by the Company, had been deducted from the interstate earnings by Exhibit 19, the revenue per ton per mile realized from the interstate business would have been less than that shown by that exhibit, wouldn't it?

A. I don't quite understand that question.

Q. If the items of bridge tolls, transfer charges, and similar items paid by the Company, which in Exhibit 19 have not been deducted from the interstate earnings, had been deducted from those earnings, the revenue per ton per mile on the interstate earnings would have been less than that shown by Exhibit 19, wouldn't it?

A. The revenue per ton per mile would have been less—yes.

4750 Q. If the live stock business had been treated as state business instead of interstate, the revenue per ton per mile on the interstate business would have been still less, wouldn't it?

A. Yes sir.

Q. Will you please look at paragraph "*d*" of Exhibit 19-*b*, offered by you, and also at paragraph "*e*", everything contained in those two paragraphs, all the statements of those two paragraphs "*d*" and "*e*", are simply the result of these discrepancies and differences which you have already mentioned aren't they?

A. They are the result of the difference between the two statements—yes sir.

Q. Which you have already mentioned?

A. Some of which we have called attention to.

Q. What has not been called attention to?

A. I would like to make myself clear there——

Q. Very well.

A. Those are two items that may not necessarily make Exhibit 19 wrong, as compared with Exhibit 5-*c*. There may be clerical errors to make additional mistakes.

Q. In either of them?

A. Yes sir, in either of them. But the fact is, Exhibit 5-*c* has been testified to here as being correct, by the State witnesses, as I understand it.

Q. I don't understand any such thing.

A. They have gone over those figures and verified them, and the statement was made that those figures were compared as care-

4751 fully as they could have been *compiled*.

Q. I don't understand any such thing.

Mr. HAGERMAN: That is our idea of it.

A. That was my idea, in calling attention to the inaccuracy of the two statements. The livestock from the Kansas City stockyards is one item that would cause an error in the two statements; and if there is any great amount of bridge tolls not deducted in Exhibit 19, and deducted in Exhibit 5-*c*, that would cause another difference. There may be clerical errors in Exhibit 19 that would cause another difference.

Q. All the statements in paragraphs "*d*" and "*e*" follow naturally from those differences, don't they, that you have already mentioned?

A. Yes sir.

Q. You say in paragraph "*c*", Exhibit 19 as a whole is, therefore, $10,548.70 more than was actually earned, as shown by Exhibit 5-*c*, for the month of October, 1905. These interstate earnings, as shown by Exhibit 19, exceed those actually made, as shown by Exhibit 19, $26,687.16 for the month. The state earnings for the month, as shown by Exhibit 19, are $16,138.46 more than the actual earnings for the month": When you prepared this, I would like to ask you, Mr. Johnson, if you did not know what the obvious explanation was of a very large proportion of those differences?

A. Why, certainly, we know that those differences that have been mentioned here would cause such a difference as that in the two statements, at the time this Exhibit 19-*b* was prepared.

4752 Q. But you did not choose to mention them?

A. It is a matter of record.

Q. You ignored the testimony, then?

A. We ignored that in compiling this statement—yes sir.

Q. You ignored testimony which you had not even disputed, didn't you?

A. Yes sir.

Q. Will you please take your Exhibit 36-*b*, which was offered last

week, and also take Exhibit 14-*a*, and Exhibit 15, offered by the Complainant: Now, in paragraph "*b*" of your Exhibit 36-*b*, you say: "An examination of the records of the transportation department show- trains actually handled on the eastern division during the month of December, 1906, as follows: Through trains, 579": I wish you would tell me where those trains start from, and where they go to?

A. I would like to say, in connection with Exhibit 36-*b*, and I believe the testimony last week will show that, that this statement was compiled entirely by Mr. Roth, and he made the examination of this eastern division report. With that explanation, I will answer as far as possible in connection with this.

Q. You are unable to answer that question, for that reason?

A. I could not answer that question very well.

Q. Can you tell me where any of these 579 trains, or the 1334 way freight trains, started from, and where they landed? Your answer would be the same to that?

A. Yes, sir, practically. Some of them, undoubtedly, would start from St. Louis.

4753 Q. You refer me to Mr. Roth for that, do you?

A. Yes sir.

Q. I will ask you another question, and see if you can answer that: On page 2, in paragraph "c," it is said that "the records in the transportation department show the average number of gross ton miles per train to be: through trains, 49,243; local trains, 43,282;" Can you tell me what is meand by "gross ton miles" there?

A. On those same records of the transportation department, gross ton miles would mean power behind the engine; it includes the weight of the car; it includes the weight of everything in that train, except the engine.

Mr. HAGERMAN:

Q. That is, the weight of the cars, as well as the contents?

A. Yes sir.

Mr. LADD:

Q. Do you know how net tonnage compares with the gross tonnage, on the average?

A. I think it will vary from fifty to sixty per cent.

Q. The net tonnage fifty to sixty per cent of the gross tonnage?

A. Yes sir, of the gross tonnage.

Q. That is, the weight of the freight is fifty to sixty per cent of the weight of the freight and all of the train back of the engine: is that it?

A. Yes sir.

The MASTER: There is quite a difference in the two propositions: if the freight is fifty to sixty per cent of the tare, which is all
4754 weight except freight, that is one proposition; but if of the 100 per cent the freight is 60 and the tare is 40, that is a different proposition.

Mr. LADD:

Q. What did you mean, Mr. Johnson?
A. I mean the gross tons would be 100 per cent.

Gen. HADLEY:

Q. That would include the train and the freight?
A. Yes sir. Now, our of that, my understanding is, the net tons will run fifty to sixty per cent of that one hundred per cent.

Mr. LADD:

Q. These figures I have just called your attention to, in Exhibit 36-*b*, as to gross ton miles, is that the result of your investigation, or Mr. Roth's?
A. This entire statement is the result of his examination.

Mr. HAGERMAN: In his examination he said he took the figures as returned by Mr. Roth.

A. The examination was made and the figures drawn off by Mr. Roth, and before finally submitted we went over the results.
Q. According to your Exhibit 14-*a*, prepared by the Company, it appears that the average number of tons on each local train was 204; that is correct?
A. The average number of tons of all of those local trains mentioned was 204.

The MASTER: Let me see if I remember the history of this Exhibit 14-*a*: under the instructions of Mr. Doddridge, inspectors or messengers were sent out to accompany the trains and take actual memoranda from the conductors' way-bills and other matters that he had in his hands, and to observe the movement of the
4755 trains and different classes of freight carried for the days mentioned in this exhibit: that is right, isn't it?
Mr. LADD: That is my understanding.

Q. Since this Exhibit 14-*a* was offered, have you had any other trains examined, and men sent out with them to inventory the contents of the trains as they ran along?
A. I believe the examination that was made at that time of the local trains also covered some through trains, as shown by Exhibit 15.
Q. I am limiting it to local trains.
A. You ask if any other examination has been made?
Q. This examination was made on the days mentioned, wasn't it, December 17th to 21st, 1906?
A. Yes sir.
Q. Have there been since that time any other tests made of actual trains, local trains, moving over any part of your road, by men sent out for that purpose, to ascertain the total number of trains, and the average number of tons on each train?
A. No sir, not to my knowledge.
Q. This Exhibit 14-*a* also shows the percentage of state freight

on these trains to have been 41 per cent, and the percentage of interstate freight to have been 59 per cent, in volume: that is right?

A. Yes, sir.

Q. Have you, since that time, had any other tests made on any other local trains, on any other part of your road, to show any different state of facts?

4756 A. Not that I know of.

Q. Look at Exhibit 15, please, offered in evidence by the Complainant: I understand that the information contained in Exhibit 15 was gathered at Mr. Doddridge's suggestion, and in the same way as the information contained in Exhibit 14-*a*: that is correct, is it?

A. Yes sir.

Q. That shows the average number of tons in the through trains to have been 470, doesn't it?

A. Yes sir.

Q. I will ask you if you have had any other tests made of any through trains by men sent out for that purpose, since the dates mentioned in this Exhibit 15, to show a different state of facts?

A. Not that I know of.

Mr. LADD: I do not want to ask Mr. Johnson anything more about Exhibit 36-*b*, but, if Mr. Roth cannot answer the questions, I wish to recall Mr. Johnson on that subject.

Mr. HAGERMAN: What he says is, this compilation of these trains and tonnage, everything obtained from the transportation department, was obtained first by Mr. Roth; and upon the results Mr. Roth brought him, Mr. Johnson compiled the statement.

The MASTER: I understood his statement to be substantially that, when he testified last week.

Mr. LADD:

Q. Please look at your Exhibit 26-*a*, offered in evidence last week?

A. Yes sir.

4757 Q. You say in that exhibit that the density of traffic is a great deal heavier on the Missouri Pacific Railway system, as a whole, than it is on the Missouri Pacific Railway in Missouri: what is the density of traffic in Missouri? Is it shown on this exhibit?

A. No sir.

Q. What is the density of traffic for the system?

A. The density of traffic for the system is 665,181 ton miles.

Q. Ton miles, that is?

A. Yes sir.

Q. Is that right?

A. Yes sir.

Q. That is the last figure in the first column of figures?

A. Yes sir.

Mr. HAGERMAN: What significance is there to that?

Mr. LADD: He says that.

A. I said tons first. The density of traffic is the revenue ton miles divided by the track miles.

Q. How is that?

A. I say, the density of traffic is the revenue ton miles divided by the miles of track in operation.

Q. In any particular period? Is this for the year?

A. This is for the year ending June 30, 1906, taken from the operating sheets.

Mr. HAGERMAN:

Q. That is, you take the revenue ton miles for any given period, and divide it by the number of miles of track operated, and
4758 that will give you the density for that period?

A. Yes sir.

Mr. LADD:

Q. You say the density of traffic is shown by the last figure in that column, which is ton miles?

A. Yes sir.

Q. What is the density of traffic for Missouri?

A. The density of traffic is less than that.

Q. How much less?

A. I should say between 575,000 and 600,000.

Q. Can you figure it out? This paper doesn't show it, does it?

A. No sir.

Q. Do you know how much it is?

A. No one can figure it out accurately from our records.

Q. Then, what is the significance of this column?

A. We are showing you a statement of the density of traffic, by operating divisions, and we also designate what portion of each operating division is in Missouri.

Q. Well?

A. And these operating divisions, except the eastern division, will not show anything like 600,000 ton miles.

Q. You say 665,181 ton miles for the system?

A. Yes sir.

Q. In your preamble you say "the density of traffic is a great deal heavier on the system as a whole than it is on the Missouri Pacific Railway in Missouri": How large is it on the Missouri Pacific Railway in Missouri: that is what we want to know.
4759 We have only one side of it net.

A. There is no possible way to determine that exactly.

Q. Why do you say it is a great deal heavier on the system as a whole than on the Missouri Pacific Railway in Missouri?

A. Because we know it is, from the operating divisions we handle.

Q. How do you know it is from the operating divisions you handle?

A. Because the statement has been made here, that it will be greater than on the system.

Q. You say it is less?

A. I know it is less.

Q. Then I want to know what it is?

A. I know it cannot be determined accurately.

Q. One of our experts has testified that the density of traffic must be greater in Missouri than on the system; you say it is less: If you have opportunities of finding out, let us know what it is?

A. I believe if the ton mileage entering into Missouri was divided on the road mileage between states, and the total ton mileage ascertained in that manner, and divided by the track mileage in Missouri, the density of traffic would be less than 600,000.

Q. Have you worked it out?

A. I have not worked it out for the year, but I have worked it out for various months.

Q. I wish you would work it out.

4760 A. That can be furnished very readily.

Q. Why haven't you done it? You see yourself, or it seems to me that I see, it is very incomplete: what is the significance of giving the figures for the system unless you give us the figures for Missouri so we can make the comparison?

A. This exhibit, 26-*a*, is simply a copy of our operating figures.

Q. Can it be worked out from the column of figures you have that the density of traffic in Missouri is greater or less than that on the system?

A. It could be estimated from these figures, but it would be better to do it from the actual result of ton miles from each operating division for each month.

Q. You could do it?

A. Certainly.

Q. But you have not done it?

A. No sir.

Q. Will you work that out, Mr. Johnson?

—. ——.

Questions by General HADLEY:

Q. That includes the Iron Mountain?

A. Yes sir, the system does.

Q. What is the density of traffic of the Missouri Pacific Railway, separate and distinct from the Iron Mountain in Missouri, as compared with the density of traffic of the Missouri Pacific as a whole?

A. I should say the density of traffic of the Missouri

4761 Pacific, separated from the Iron Mountain, as a whole would be less than the density of traffic of the Missouri Pacific in Missouri.

Q. The Iron Mountain figures are not included in this litigation?

A. No sir.

Q. And the only place you have introduced figures from the Iron Mountain, is to demonstrate a smaller density of traffic of the Missouri Pacific in Missouri, than on the entire system: That is the only place you have introduced Iron Mountain figures, isn't it?

A. We have not introduced Iron Mountain figures in any statement, or in any place, except in this statement.

I would like to say that Exhibits 28 and 29, 30 and 31, introduced

by the State, are based on results from the entire system, including the Iron Mountain.

Q. But that has no relation to density of traffic?

A. The density of traffic determines, to a certain extent, the cost of each of these operating divisions.

Q. But, taking the Missouri Pacific, separate and distinct, as its earnings and expenses are the ones involved in this litigation, how much greater is the density of traffic on the Missouri Pacific in Missouri than its average for the entire system?

A. We show the Missouri Pacific on this statement to be 531,000; that is the entire Missouri Pacific and branches. I should say offhand that the density of traffic on the Missouri Pacific in Missouri would be 575,000 to 590,000 or 600,000.

4762 Q. Have you figured out that demonstration?

A. On different months, but not for this particular period, that I can remember.

Q. What months did you take?

A. Whatever months were most convenient to me at the time I was looking this up.

Q. When did you do this?

A. After the statement had been made in this litigation that it was believed that the cost on the entire system, which includes the Iron Mountain, would be a fair average to apply to business in Missouri.

I would like to explain that these operating sheets, Forms 1940 and 1941, which have been introduced in evidence here as Exhibits 25 and 27, have no bearing on the corporate lines at all. They cover the territory under the control of various superintendents of the Missouri Pacific system, and for that reason it is practically impossible to compile from those statements any expense that bears on the Missouri Pacific Railway, as separated from the Central Branch Railway, or as separated from the St. Louis, Iron Mountain & Southern.

Q. That is equally true of the St. Louis terminals, isn't it?

A. The St. Louis terminals are part Missouri Pacific, and part Iron Mountain.

Q. Are they used interchangeably by each road?

A. Yes sir.

4763 Questions by Mr. LADD:

Q. Will you please look at your Exhibit 55: it is headed "The reasons why the proportionate part of the expenses chargeable to state freight should be determined upon a revenue and not upon a ton mile basis": And the first reason refers to some decisions of the courts.

Have you read those decisions?

A. Certain portions of them, yes.

Q. You say they have been actually adopted by the courts in these cases, do you?

A. I say this basis has been adopted by those courts in making their decisions in these cases.

Q. And you refer to the decisions in support of this statement which you have testified to, do you?

A. How is that?

Q. You refer to the decisions in support of that statement to which you refer, here in Exhibit 55?

A. Yes sir.

Q. Now, Mr. Johnson, isn't this about it: that Counsel for the railroad company prepared this Exhibit, and you adopted it as your testimony: isn't that it?

A. I have not adopted it without an investigation of it—No, sir.

Q. But it was prepared by Counsel, wasn't it?

A. I believe the principal part of it was: at least the first part of it. But the balance was prepared from memoranda that were sent to him from the Auditor's office.

4764 Q. It is in the nature of an argument?

A. It appears to me to be so; the joint argument of the witnesses in this case.

Q. It is argument in advance of the brief. I think we will have to answer it later.

You give a number of reasons, and at the end of paragraph 2 you say: "The contention of complainant is that the simple, certain uniform method is the revenue basis, and such is the method in general use."

Before I go to that, I wish to ask you a question in regard to the first paragraph, which refers to certain decisions of the Supreme Court and the Circuit Court. I would like to ask you if you have read all those cases carefully enough to be able to state whether there was presented to the court, or whether there was any attempt in those cases to ascertain the cost and the revenue per ton mile?

A. No, sir, I have not read all of the detail, enough to say whether any evidence along that line had been presented or not, but——

Q. Are you able to state whether the Court, in any of those cases, had before them the proposition that cost and revenue, as between state and interstate traffic, ought to be determined upon the ton mile basis, and rejected that proposition?

A. I won't say that, but I will say that statements have been introduced in these cases that would grant the court all the information along that line, had he sought a ton mile basis.

4765 Q. What I asked you is, whether the proposition was submitted to the court, that the true test, both as to earnings and cost, was the ton mile basis?

A. I have seen nothing of that kind in the decisions.

Q. So those decisions, as far as you know, did not reject the ton mile theory?

A. No, sir. The decisions rejected nothing.

Q. Returning again to the closing sentence of paragraph 2 of your exhibit 55, you say "The contention of Complainant is that the simple, certain uniform method is the revenue basis, and such is the method in general use": you state, do you, that that is the method in general use?

A. It has been the method in general use, in cases of this kind,

and in a great many other cases, in general statistical work, in railroad offices.

Q. You have already stated that you have attended all the Wabash hearings?

A. Yes, sir.

Q. I will ask you now if you heard testimony of Mr. Henry Miller, the General Manager of the Wabash Railroad Company, in the case brought by that Company against the state officials, a case somewhat similar to this, which testimony was given in a hearing of that case in St. Louis, on December 20th:

"Q. When you speak of tonnage, do you mean tonnage or ton miles?

"A. Ton miles.

* * * * * * *

4766 "Q. That is the purpose in making the calculation of the rate per ton mile, both on revenue and cost, Mr. Miller? That involves great labor, doesn't it, making those calculations?

"A. Yes, sir.

"Q. What is the purpose of it?

"A. To show the relative figures.

"Q. Between the different years?

"A. Between the different years, and to show the rate of the cost.

"Q. And the ton mile is the unit?

"A. Yes, sir.

"Q. And that is the proper unit, isn't it?

"A. That is the unit that is generally used.

* * * * * * *

"Q. Mr. Miller, when you speak of one kind of business costing two or three times as much to handle as another kind of business, you mean, I take it, that it costs two or three times as much per ton mile?

"A. Yes, sir.

* * * * * * *

"Q. Tell me, then, how the item of insurance amounting to fifty or sixty thousand dollars a year is affected?

"A. That is one of the items of expense taken into account in the operating expenses of the railroad, and in arriving at a ton mile cost you simply divide the tonnage into the total expenses.

* * * * * * *

4767 I want to say in that connection that the freight train mile unit is not used. The ton mile is the unit. We pay no attention to the freight train mile cost. It goes up and down, and we pay no attention to it.

* * * * * * *

By Mr. MINNIS:

"Q. Have you arrived at the cost per ton mile?

"A. Just as I explained there. We do not use the ton mile unit

in our comparisons, because it does not represent the modern unit, either in comparing or in our statistics. For instance, in this comparison made here (indicating blue print) the train mile cost is one thing. It may show that on a division, or on a railroad, the train mile cost is comparitively low. The ton mile cost, which is the method used generally, and the one recognized by the Interstate Commerce Commission, may be a very different figure.

* * * * * * *

"Q. You have said that the cost per train mile is the method which has been abandoned: What method has taken its place?
"A. The cost per 100 tons one mile.
"Q. Has that method been accepted generally by the railroads?
"A. Yes, sir.
"Q. State whether or not in your judgment it is a method which gives a fairly accurate result?
"A. For comparative purposes, it is the best there is at present.

* * * * * * *

4768 "The MASTER:

"Q. That system, then, would be in the direction of putting a premium on light trains?
"A. Yes, sir. That is the reason it was discontinued as a unit of determining the cost of transportation and handling freight. The best showing could be made by running the trains light, on a train mile basis. But that is not true on a ton mile basis. You get down to "brass tacks" on the ton mile.
"Q. You get down to the actual conditions on the ton mile?
"A. Yes, sir."
Q. Did you hear that testimony, Mr. Johnson?

Mr. HAGERMAN: This is objected to as calling for hearsay testimony, and as being immaterial.
The objection is overruled.

A. Yes, sir.
Q. Do you still say, as in this Exhibit 55, that the revenue basis is the method in general use?
A. It is the method in general use for a purpose of this kind, I want to say this: I never knew of a railroad company, certainly not the Missouri pacific, ever making any comparison of revenue per ton per mile with its cost per ton per mile.
Q. You never had any occasion to, I suppose?
A. If it is the unit generally adopted by all railroads, it is the comparison they would make.
Q. Mr. Miller says it is.

Mr. HAGERMAN: That is objected to, Mr. Miller does not
4769 say it is. He says "simply for the purpose of comparison."
You cannot single out a part of a witness' testimony, and use it as it is used in this question.
Mr. LADD: Mr. Miller's testimony has been read, and will speak for itself.

Questions by Mr. HADLEY:

Q. Do you agree with what Mr. Miller says there, Mr. Johnson?
A. No, sir. I do not.
Q. You think it is not the best basis for comparison?
A. It may be the best basis for comparison on the statement he was handling at the time he was giving that testimony, which was their operating statement.
Q. It was their operating statement applied to this case?
A. No, sir. It was a statement that compares with our Forms 1940 and 1941, I think, but I may be mistaken on that.
Q. You have never had occasion, in keeping your accounts, to divide your earnings between state and interstate business?
A. Never.
Q. When you come to a statement of this kind, you have to adopt a certain theory for the purposes of apportioning these expenses?
A. Yes, sir.
Q. Mr. Miller, has adopted the theory of apportioning it on the basis of ton miles, hasn't he, according to your understanding of the testimony?

4770 Mr. HAGERMAN: That is objected to. The witness' understanding is wholly immaterial.
The MASTER: That is clearly incompetent.

Mr. HADLEY:

Q. You have adopted the theory of dividing it on the proportion of revenue?
A. Yes, sir.
Q. Are you understood as subscribing to that theory, personally?
A. That is my personal opinion, that that is the best basis we could have adopted for this purpose.
Q. Have you read any decisions in regard to the accuracy or inaccuracy of that theory, recently?
A. Not recently.
Q. You have already stated that the question of whether the revenue ton mile is the best theory has not been referred to in any of these cases mentioned by counsel in Exhibit 55?
A. That a comparison of those two methods has not been made?
Q. Yes.
A. That is my understanding.
Q. Have you read the recent decisions of the Board of Railroad & Warehouse Commissioners in the state of Kentucky, on the ton mile theory of dividing expenses, and revenue theory of dividing expenses?
A. No, sir.
Q. Are you familiar with the fact that such a decision was rendered, and attracted a good deal of attention in railroad circles.

4771 A. I have heard the Kentucky decision.
Q. Have you understood that was written by the secretary

of the Interstate Commerce Commission, who went there, and spent months in the investigation of the railroad situation in that state?

A. I did not know that.

Q. Were you familiar with who was the compiler of that statement?

A. No, sir.

Q. Were you in Chicago when Mr. Gray, of the Great Northern testified?

A. No, sir.

Q. Have you read his testimony in the Burlington case?

A. I have not read any of the testimony in the Burlington case, at all.

Q. Are you familiar with the result of Mr. Gray's examination, extending over a considerable period of time, in reference to the expense per ton mile on that system?

A. No, sir.

Q. You are not familiar with the controversy that took place there in the state of Minnesota, before the Board of Railroad and Warehouse Commissioners, between the Great Northern Railroad company and the state, in which the question of the proper method of division of expenses was the question at issue?

A. No, sir.

Q. Are you familiar with the controversy that has been
4772 had in the course of the last year before the Wisconsin Board of Railroad Commissioners, and as to the method of determining expenses that has been agreed upon by both the railroad company and the state.

A. Not enough to discuss it. I have heard of it.

Q. Do you know it to be a fact that both parties to that controversy have agreed to the ton mile basis?

A. I believe they did, but I am not sure of that.

Q. Isn't it a fact that in your recent investigations that you are familiar with, the ton mile theory has been adopted by both the railroads and the state wherein the question of apportionment of expenses has been the question at issue?

A. By agreement between the railroad companies and the State.

Q. You do not imagine the railroad companies adopted that simply out of a spirit of philanthropy, do you?

A. I have not any idea what their reasons would be for adopting it.

Q. Name some other state in which this controversy has been conducted, besides those I have mentioned: May be your information is broader than mine.

A. For a division of expenses on the ton mile basis?

Q. Yes.

A. I know of no other states, and none through which we run.

Q. But all the states of which you do know, in which this controversy has occurred, have adopted the ton mile basis?

A. All I know of is the state of Wisconsin.

Q. I understood you to say you knew about the state of
4773 Minnesota?

A. I said I had heard of it.

Q. And you also heard that basis was adopted in the state of Kentucky?

A. I didn't say the state of Kentucky.

Mr. HAGERMAN: This testimony is objected to, as incompetent, as hearsay, and as not based upon any knowledge.

The MASTER: I can see no bearing whatever that it has.

Gen. HADLEY: He has stated in this Exhibit 55 that this is the basis in general use. I want to see what information is the basis of that statement.

The MASTER: I think the inquiry has gone far enough.

Gen. HADLEY: I was not thinking of continuing it further, but I think it is proper as far as it has gone.

Q. On the basis of dividing expenses, that you have adopted, isn't it a fact that the smaller the revenue per ton mile from the state of business, the smaller is the amount of expenses apportioned to it?

A. How is that?

Q. The smaller the revenue derived per ton mile from the handling of state freight, the smaller is the expense that would be apportioned to the doing of that business?

A. Yes, sir.

Q. And the higher the revenue derived per ton mile for the doing of state freight business, the greater is the proportion of expenses to be apportioned to it?

A. Yes, sir.

Q. Consequently, for example, if there was $5,000,000 of
4774 revenue derived from the doing of state and interstate freight business in a certain period, and $4,000,000 of that was derived from the interstate freight business, and $1,000,000 was derived from the state freight business, then on the revenue basis what proportion of the $4,000,000 expenses for the doing of the business would you assign to state freight?

A. The expense was $4,000,000?

Q. Yes. The revenue $5,000,000, divided between interstate and state business on the basis of four to one.

A. One-fifth.

Q. One-fifth of the expense?

A. Yes sir.

Q. If the revenue for the handling of the state freight had been reduced per ton per mile fifty per cent, so they derived $500,000 from the state freight business, instead of $1,000,000, what proportion of the expenses would you apportion to the state freight business?

Mr. HAGERMAN: That is objected to, as unintelligible.

The MASTER: If the witness does not understand it, he may decline to answer.

Mr. HAGERMAN: He asks a question, if the percentage of per ton per mile was so-and-so, it is easy enough to arrive at; but it is an impossibility for anybody to understand that question—or, at least, it is for me.

Mr. HADLEY:

Q. Are you able to understand the question, Mr. Johnson?

A. As I understand it, you want to know what proportion of this $4,000,000 would be apportioned to state business, if the earnings on the state business were $500,000 out of the $5,000,000 total?

4775

Q. That is right.

A. I would say, one-tenth of the entire expense would be charged to state business.

Q. Then, by reducing the revenue derived from the handling of the same amount of state freight, you would reduce the expenses one-half, wouldn't you?

A. If the revenue from the state business were reduced one-half, we would reduce the expenses one-half on that basis.

Q. And yet the same number of ton miles would be hauled in each case?

A. That would be an impossibility.

Q. Suppose you did the same amount of state business, but got only half as much revenue, by reason of the passage of a Maximum Freight Rate law?

A. There is the result of such calculation. But I must say that such a proposition would be impossible.

Q. How much did this 1905 Maximum Freight Rate law reduce the revenue?

A. I think 32 per cent; that was 32 per cent on the commodities affected. What the difference was on the total business, I do not remember.

Q. Take the commodities affected. It reduces it 32 per cent. Then, in dividing the expense of doing the state and interstate freight business, on the basis of revenue, would you apportion 32 per cent more expense to the doing of the state freight business, without this law being in effect, than you would with this law in effect, if the same amount of freight had been hauled in each case?

4776

A. If all the freight, that is, if the freight earning the revenue on the state business, had all been reduced 32 per cent, we would have reduced our operating expenses 32 per cent. That is, we would have to do it on this basis. But I say, I doubt if 32 per cent reduction of total freight earnings for any period would be possible.

Q. Assuming for the purposes of illlustration that this Act of 1905 affects all of the state freight business, and accomplishes a reduction of 32 per cent; then, by obeying this law you would have 32 per cent less revenue in 1905 than you had in 1904, assuming you did the same amount of business?

A. Assuming that the reduction was 32 per cent on all of the earnings?

Q. Yes.

A. Yes.

Q. In 1904 you would have to have assigned 32 per cent more of the expense of the doing of the state freight business than you

would assign on the revenue proportion of the business for the doing of the business in 1905?

A. We would assign 32 per cent more, prior to the Act of 1905, than we would subsequent to it.

Q. Although the rates were 32 per cent higher?

A. I did not catch that.

Q. Although the rates were 32 per cent higher then, in 1904, than they were after the passage of the Act, you assign 32 per cent more for the doing of that state freight business in 1904

4777 than you do in 1905?

A. Yes sir.

Q. Then the greater the reduction in revenue, the less expense assigned to the doing of the state freight business?

A. The less the amount of earnings, the less the expense, on this basis.

Q. Then if, instead of decreasing the rates by the Act of 1905, they had been increased 50 per cent by that Act, then you would have had to assign 50 per cent more expense to the doing of state freight business in 1905 than you would have in 1904, wouldn't you?

A. I might say, Mr. Hadley, that if they were to increase the rates, or decrease the rates, on state business, 50 per cent, we would not haul the business.

Q. You answer my question: on your theory, the greater the revenue derived, the greater the expenses; and the less the revenue derived, the less the expense for doing the state business?

A. On our theory, the greater the revenue, the greater the expense, necessarily, because the earnings is the factor we use in determining the expense.

Q. I understand the method you use. Your company hauls a larger amount of Company material, such as coal, ties, rails, bridge timbers, and articles of that nature, on which you charge no revenue: is that true?

A. Yes sir.

Q. If you based your cost of doing the business on the

4778 revenue, what would you say it cost to haul all this company material, from which you derive no revenue at all?

Objected to as incompetent, immaterial and irrelevant.

Objection over-ruled.

A. Repeat that question, please.

Q. If you based your cost on the revenue, what would you say it cost to haul all this company material from which you derive no revenue at all?

A. That would be hard to determine.

Q. In fact, you have not determined it, have you, Mr. Johnson?

A. No sir.

Q. Nor made any effort to?

A. No sir. But if we had not hauled it, but some other road had hauled it, it would have increased our expenses. And even though we did not get the revenue from the haul of our own company

material, we did decrease our expense to the extent of hauling it ourselves.

Q. And you increased your expenses to the extent of the expense that it took to handle that business?

A. Yes sir.

Q. If your percentage of freight expenses to freight earnings is 75 per cent, would you say that the cost of hauling a carload of company material from St. Louis to Kansas City was 75 per cent——

Mr. HAGERMAN: That is objected to.

Q. (continued). —inasmuch as there would be no revenue
4779 on this business, from what would you say your cost was?

Mr. HAGERMAN: That is objected to as incompetent, and as argumentative, because the question of handling the company's own material is not a matter of consideration in this inquiry.

The MASTER: I can see no direct bearing that the testimony has, but I will over-rule the objection pro forma.

A. There would be no way of determining what the cost of hauling a carload of company material amounts to, on the earnings basis, except you take the average earnings per car as a basis. That is, to determine what it would cost you, assuming it costs you just as much to haul a car of company material as a car of revenue-earning freight.

Q. Figuring on the ton mile basis, the expense of doing the company business can be taken into consideration, and that item eliminated, can't it?

A. No sir, because it would be impossible to tell what proportion of your total operating expense was incurred in the hauling of company material, if any.

Q. Cannot you determine the number of ton miles the company material was hauled?

A. Yes sir.

Q. When you have determined the expenses per ton per mile on the entire tons hauled, then you can deduct that amount of expense from the total expense, before you make the division between state and interstate, can't you?

A. No sir, I would not say it cost anything like as much to
4780 haul a car of company material as to haul a car of revenue freight.

Q. If the service was the same?

A. If the service was the same, and they gave it the same attention as the revenue-earning freight, then it would cost the same as a car of revenue-earning freight.

Q. You could classify it according to commodities, and divide it accordingly?

A. Yes sir, if you could determine the amount of the various commodities hauled?

Q. Anyway, your revenue basis leaves out of consideration entirely the company freight that is handled?

A. Yes sir, it is treated as an incidental matter.

Q. And that is what per cent of the entire tonnage or ton miles? Did you estimate that?

A. I have estimated that once in this case.

Q. At what?

A. I think it was a little over ten per cent, if I remember right.

The MASTER:

Q. Did I understand that the transportation of the company's freight, upon which they derived no revenue, has not entered at all into any of the exhibits or estimates you have submitted here in this case?

A. Not in these later exhibits.

Q. But in Exhibits 5 and 5-*a*, is the transportation of the company's freight left entirely out of the company's statements?

A. The company's freight is hauled in the same car, and in the same train, with revenue-earning freight.

4781 Gen. HADLEY:

Q. But you take all of your operating expenses, the expense of doing all the business of the railroad, and divide it between state and interstate freight?

A. All of the freight operating expenses.

Q. Now, a part of those expenses, divided between state and interstate business, are the expenses which were incurred by the doing of the company's freight business?

A. For which both the state and the interstate freight derived the benefit.

Q. I didn't ask you that. I say, that includes that expense?

A. Yes sir.

Questions by Mr. LADD:

Q. Suppose in one year your interstate freight earnings are $4,000,000; your state freight earnings are $1,000,000; that is a total of freight earnings of $5,000,000. Suppose, then, that your total freight expenses are $4,000,000: how do you say the expenses ought to be divided between those two classes of business?

A. On a revenue basis, charging one-fifth of the $4,000,000 to the cost of handling state business.

Q. And the other four-fifths?

A. To the cost of handling the interstate business.

Q. Now, that is for one year: take the succeeding year: your interstate earnings are the same, $4,000,000; your state earnings are $500,000; your total freight earnings are $4,500,000; your
4782 total expenses are $4,000,000. Your freight, in both cases is of precisely the same character; your wages are the same; your trains are the same; every condition is the same except the amount of revenue. The volume of business is the same, and every condition is the same except the amount of revenue on state freight, which is only one-half of what it was in the preceding year: how will you divide the expenses, then?

A. That is assuming, in my opinion, an impossibility.

Q. I want you to assume that impossibility.

A. I would charge, under that theory, one-ninth of the total expenses to the cost of handling the state business, and the other eight-ninths to the cost of handling interstate business.

Q. In one case, you would charge one-ninth, and in the other case you would charge one-fifth, for doing precisely the same work?

A. No sir, for an impossible case

Q. What?

A. Your second proposition is for an impossible case.

Q. Suppose the second year your interstate earnings remained the same, $4,000,000, and your state earnings were $800,000 (reduced 20 per cent), your total earnings, then, are $4,800,000; and every condition in the second year is precisely the same except the amount of revenue.

Mr. HAGERMAN: That is objected to, because it could not possibly be so.

Q. (continued). How much do you charge in the second year as expenses in connection with the state traffic?

4783 Objected to.
Objection over-ruled.

A. I would charge 8/48.

Q. One-sixth?

A. Yes sir.

Q. In one year you would charge one-fifth, and in the next year one-sixth: is that it?

A. Yes sir.

Q. For precisely the same service?

A. If such a thing were possible, yes.

Q. Please look at Complainant's Exhibit 8-*a* offered last week. I notice there you have used the expression "29 tons per car": don't you mean 27?

A. I thought the statement had been made that it was 29.

Q. The testimony of Mr. Ludlam or Mr. Taliaferro was that it was 27 tons.

Aren't you, in this Exhibit 8-*a* referring to the testimony of Mr. Ludlam, or Mr. Taliaferro—I think it was Mr. Ludlam's—in which he said that your Exhibit 8 showed that the average tonnage per car of state carload freight, as shown by your Exhibit 8, was 27 tons, and the average loading of the interstate freight was 22½ tons per car: isn't that what your Exhibit 8-*a* refers to?

A. I do not remember that Mr. Ludlam attempted to separate that between state and interstate. What he was comparing was the loading as shown by these exhibits, with the loading shown in our annual reports.

4784 Q. Mr. Ludlam did testify that your Exhibit 8 showed that the average loading in carload lots of interstate freight, as shown by the business of 88 stations, is your Exhibit 8, was 22½ tons per car; and of state freight, at those stations, by the same exhibit, was 27 tons per carload. Now, what I want to ask you is, have you, since this Exhibit 8 was put in evidence, made any other or further

examination, which would vary the average loading of interstate and state cars, as shown by this Exhibit 8?

A. No sir.

Q. You have not?

A. No sir. Can I give a word of explanation in connection with this Exhibit 8-*a*?

Q. Yes.

A. The only reason I know of for filing this as an exhibit at all, was my understanding of the testimony given by Mr. Ludlam, in which I understood him to say that the average loading in Missouri was either 27 or 29 tons per car (as you have corrected it), while the average upon the entire Missouri Pacific system, as shown in our annual report, was 19.3 tons. Those two averages are compiled upon entirely different bases. That was the purpose in showing this statement, to show how the same train might possibly vary, by figuring upon the basis used by Mr. Ludlam, and upon the basis used by the Missouri Pacific Railway Co., in its annual report. But it was not a criticism on Exhibit 8, or any of Mr. Ludlam's testimony.

Q. I have not criticized Exhibit 8, but what I want to
4785 ask you now, (and I think you have already answered), is whether you or your company have made any investigation on the line of Exhibit 8, which would make any other or different showing as to the average loading of state and interstate carload freight?

A. None that I know of.

Q. So far as Mr. Ludlam's testimony, to the effect that the number of tons per loaded car mile (which is the language used on page 48 of the Annual Report of the Company for 1906) is the same as the number of tons contained in the cars, divided by the number of cars,—he is mistaken?

Mr. HAGERMAN: Then the criticism attempted to be made by Exhibit 8-*a* would be practically correct?

Mr. LADD: If that is what Exhibit 8-*a* means, Mr. Ludlam, upon reflection, concedes that he is mistaken.

A. That was our only object in filing Exhibit 8-*a*, the comparison that was made between the Annual Report, and Missouri.

Q. "19.3" in this Exhibit 8-*a*, should be "19.1", as you will see yourself from an examination of your annual report.

A. In connection with this, this was made just from memoranda taken at the time the testimony was given.

Q. Look at the annual report, and see?

A. (After examining annual report:) It should be "19.1."

Gen. HADLEY:

Q. Let me see if I understand this: insofar as Exhibit 8 shows the average loading of state and interstate freight, you do not criticize that, in either Exhibit 8-*a* or any other exhibit?

4786 A. So far as the 27 tons, and the 22½ tons, are concerned, we are not criticizing that at all.

Q. It is only insofar as there is an attempt made to compare the 27 tons, the average loading for state freight, and the 22½ tons,

the average loading for interstate freight, with 19.1, that you made any criticism, as they do not relate to the same unit of measure: is that right?

A. Yes sir.

Q. And that arises from the use of the expression "total number of loading ton miles" on page 48 of the Annual Report?

A. Yes sir.

Q. And that is all there is?

A. Yes sir. If we could determine from the annual report, the number of cars, and the number of tons, we could insert an average similar to the one you have compiled from this Exhibit 8, but it is impossible to do that, from figures of that kind.

Q. In other words, on page 48 of the Annual Report, there is not any figure which could be compared with the 27 and the 22½, the average ton loading which is shown by Exhibit 8?

A. That is it.

Mr. LADD:

Q. Look at your Exhibit 11-*a*: were these figures prepared by Mr. Roth?

A. These figures, together with Exhibit 36-*b*, were prepared by Mr. Roth.

Q. Then I will pass that.

4787 Please look at Exhibit 29*a*: what is the object of that exhibit?

A. The purpose of this exhibit is to endeavor to apply the various averages shown on Exhibits 28 and 29, to see how far they will come from making the actual expense reported as the expense of the state of Missouri.

Q. How do you do that?

A. Paragraph "*d*" explains the method by which we arrived at it.

Q. Paragraph "*d*" Interstate freight earnings, $3,777,390.45:" Now, are those the interstate freight earnings, as shown in your Exhibit 5-*a*?

A. Yes, sir, as shown by Exhibit 5-*a*.

Q. Where did you get your 80.99 per cent, which is shown on the same line?

A. That is taken from the figures shown in Exhibit 19, repeated in your Exhibits 30 and 31. It is the first assumption used in your Exhibits 30 and 31.

Q. 80.99 per cent of the interstate freight was derived from carload, and 19.01 from less than carload business: is that right?

A. Yes, sir.

Q. Now, you divide these earnings by the revenue per ton, respectively, as shown by Exhibit 19: is that right?

A. We divide that by the revenue received per ton.

Q. And you arrive at a certain number of tons of carload, and a certain number of tons of less than carload freight, and 4,595,305 tons of interstate freight of both classes: that is for the year,

4788 is it?

A. That is for the year, yes, sir.

Q. For the year 1905.

A. Yes, sir.

Q. Then you multiply that by the cost per ton, as shown by our Exhibit 28; and you treat the state freight the same way, don't you?

A. Yes, sir.

Q. Then, in paragraph "*d*", on page 2, you reach, by that method, the total expenses, at single cost, as $3,374,271.69: at double cost, $3,392,766.06: at triple cost, $3,408,186.04.

According to your Exhibit 5-*a*, your total freight expenses were $4,203,320.24.

And you say that according to this calculation the expenses are far less than the actual expenses: that is right, isn't it?

A. Yes, sir.

Q. Now, look at your paragraph "*d*" on page 1; you have single cost at 57 cents and a fraction: that is right, isn't it?

A. Single cost 57.946 cents.

Q. That is the cost per ton, arrived at in that way, of all the freight, both revenue and company freight, isn't it?

A. Yes, sir.

Q. What was the cost per ton, as testified to by Mr. Ludlam, of the revenue freight?

4789 A. I don't remember his giving any testimony as to that cost.

Q. Wasn't it 66¼ cents?

A. I don't remember.

Q. 66¼; didn't he testify that, in answer to a question of Mr. Hagerman?

A. I do not remember his testifying as to that.

Q. Let me see if I can refresh your recollection. Mr. Hagerman said: "Look at Exhibit 28, starting with the basis you did in the preparation of Exhibit 28, and following out the assumptions contained in that, the result is 57.946 cents for the cost per ton: is that right?

"A. Of the interstate freight, yes.

"Q. I wish you would add to that this 11 per cent due to having taken into consideration the company freight, and see what the 57.946 would become?

"A. It would become 64.384 cents."

Do you remember that?

A. I do not remember that.

Q. If that is true, wouldn't it have been right to have taken as your single cost 64.384 instead of 57.946?

A. No, sir. If the 66 cents is the actual cost of handling the revenue freight, then your 57 cents is not right. If the 57 cents is right here (indication Exhibit 29-*a*) then the 66 cents is not right as the cost of handling the revenue freight.

Q. At all events, you do not take into account that testimony of Mr. Ludlam's at all, in the preparation of this Exhibit?

4790 A. No, sir, I have no recollection of his being asked that question, I had forgotten it altogether.

The MASTER: He takes the single cost, 57.946 cents, from Exhibit 28?

Mr. HAGERMAN: Just exactly as he gave it in Exhibit 28; and the purpose of this Exhibit 29-*a* is to show there is a deficit unaccounted for on the basis on which he prepared Exhibit 29-*a*.

Mr. LADD:

Q. You know our Exhibits 28 and 29 were based on Forms 1940 and 1941, Exhibits 26 and 27?

A. Yes, sir.

Q. You knew our Exhibits 28 and 29, which you refer to, were based on those, and followed them?

A. Yes, sir.

Q. And the figures in those Forms 1940 and 1941 included company material: isn't that right?

A. Yes, sir.

Q. In trying to get at the cost and expense of revenue freight, do you think it is fair to include company material, as you have done here, and you have done it in using the figures, 57.946 cents, haven't you?

A. That will include company material, the 57.946 cents.

Q. In paragraph "*d*" of Exhibit 29-*a*, you multiply the 57.946 cents by the number of revenue tons, don't you?

A. Yes, sir.

Q. And that produces the figure $2,662,795.43: is that right?

A. Yes, sir.

4791 Q. Whereas, if you had multiplied the number of tons by 64.384 cents, instead of 57.946 cents, your figures $2,662,795.43 would have been very much larger, wouldn't they?

A. Yes, sir.

Q. Isn't it fair to multiply the number of tons of revenue freight by the cost of moving the revenue freight, instead of by the average cost of moving all the freight, including company freight?

A. Yes, sir, it would come nearer to giving the exact figures, if we had taken that revenue freight.

Mr. LADD: I take it, that was an oversight.

Mr. HAGERMAN: We would still be "shy" over $600,000, even on that theory.

Mr. LADD:

Q. Do you know what difference that would make, Mr. Johnson?

A. No, sir.

Q. It would not be in excess of ten per cent.

Mr. LADD: I know if there is any error there you will be glad to correct it.

I want to read you from Mr. Ludlam's testimony:

"Q. Are the figures shown in Exhibits 29 and 30 based on the company's figures in Exhibits 26 and 27?

"A. I think you mean the figures shown in Exhibits 28 and 29?

"Q. Perhaps I do.

"A. In the first column of Exhibit 28 the cost per ton is shown to be 57.946 cents.

"Q. What I ask you now is, are the figures shown in
4792 Exhibits 28 and 29 based on the figures shown in Exhibits 26 and 27, the latter being the analysis of Superintendents' Operations, Forms 1940 and 1941?

"A. Yes, sir.

"Q. Do those figures in those two Exhibits Nos. 26 and 27, include the company tonnage?

"A. Yes, sir.

"Q. While the 66¼ cents arrived at in your cross-examination is based on revenue tonnage: is that right?

"A. Yes.

"Q. Suppose the figures in Exhibits 28 and 29 were based on revenue freight alone, how much would the increase of cost per ton, both state and interstate, be—what per cent?

"A. About 11 per cent.

"Q. Why?

"A. The company freight ton miles is shown by the annual report of the President for the year ending June 30th, 1906, to amount to about ten per cent of the total ton miles, and ten per cent of the total ton miles would be about 11 per cent of the revenue ton miles.

"Q. And the cost of the 11 per cent, if it was added to the cost shown in your Exhibits 28 and 29, would pertain equally to state and interstate freight, wouldn't it?

"A. Yes, sir.

"Q. So, the relative proportion between the cost of state and interstate freight, as shown by Exhibits 28 and 29, would not be changed, would it?

4793 "A. No, sir. And I might say here, that the only purpose of these Exhibits 28 and 29 was to show the relative cost of the two classes of freight per ton in the state of Missouri.

"Q. Look at Exhibit 28, starting with the basis which you did in the preparation of Exhibit 28, and following out the assumption contained in that, the result is 57.946 cents average cost per ton: is that right?

"A. Of the interstate freight, yes.

"Q. Now, I wish you would add to that this 11 per cent due to having taken into consideration the company freight, and see what that 57.946 would become?

"A. It would become 64.384 cents.

"Mr. HAGERMAN:

"Q. The result of that would change every figure you have there, wouldn't it?

"A. No, sir, it will not change any figure except the total cost per ton, as shown by those two Exhibits.

"Q. Is that the item 'Total cost per ton' single cost, that you are dealing with now?

"A. Yes, sir.

"Mr. LADD:

"Look at Exhibit 29 for the state freight, and you have the figures 37.745 cents: Add your 11 per cent to *to* that, and what does it become?

"A. 41.939 cents."

Now, leaving that, for a moment, Mr. Johnson, look at page 2 of Exhibit 29-*a*, about two-thirds of the way, down in paragraph "*d*" and you have used as the cost of the state freight 37.745 cents per ton, haven't you?

4794 A. 37.745.

Q. Then the examination proceeded as follows:

"Q. Look at Exhibit 29 for the state freight, and you have the figures 37.745 cents: Add you- 11 per cent to that, and what does that become?

"A. 41.939 cents."

Now when you are dealing with the cost of revenue freight, wouldn't it be right, if you want to get the total cost of the revenue freight, if you know the cost per ton of the revenue freight, to take that cost and multiply it by the number of tons? Wouldn't that be a great deal nearer right?

A. That would come a little nearer to it than this Exhibit.

Q. I will read further from Mr. Ludlam's testimony, as follows:

"Q. So you have this result: 64 cents and a fraction for interstate, and 41 cents and a fraction for the state, as against 66¼ for the whole: is that right?

"A. Yes, sir.

"Mr. HAGERMAN:

"Q. Then, if I understand you, Exhibits 28 and 29 are gotten up so that whatever is shown there includes company freight as well as revenue freight?

"A. They were gotten up on the company's figures, which do include company freight.

"Q. There is nothing of that sort appearing on the Exhibit.

4795 "A. The first item on the Exhibit would indicate that.

* * * * * * *

"Q. Assuming that the cost of the interstate freight is 64.384 cents, according to those figures, look at your Exhibit 19 and tell me the revenue per ton for interstate freight.

"A. It is shown by Column 5 of Exhibit 19 to have been 82.2 cents per ton.

"Q. Those are gross earnings?

"A. Yes, sir.

"Q. If the cost was 64.384 cents, what percentage is that of the earnings?

"A. 78.35 per cent.

"Q. What were the interstate earnings in Missouri, as shown by page 3 of the complainant's Exhibit 5?

"A. $3,777,390.45.

"Q. What is 78.35 percent of that?

"A. $2,958,829.94.
"Q. On that theory, those would be the interstate expenses?
"A. Yes, sir.
"Q. By Exhibit 19, what is the revenue per ton of state freight?
"A. It is shown by Column 5 of Exhibit 19 to have been 86.63 cents per ton.
"Q. Assuming that the cost per ton on the state freight is 41.939, cents, as you did a few months ago, what percentage is that of the earnings?
4796 "A. 48.42 per cent.
"Q. What were the state earnings in Missouri, as shown by page 3 of Exhibit 5?
"A. $1,632,856.14.
"Q. Apply the percentage of expense, 49.42 to that, and what does it make?
"A. $790,628.94.
"Q. What do you have for state expenses?
"A. $790,628.94.
"Q. What do you have for interstate expenses?
"A. $2,958,829.94.
"Q. Add them together, and what would that amount to?
"A. $3,749,458.88.
"Q. Add to that $480,000, we will say, an assumed overcharge to Missouri on account of the Kansas City terminal expenses, and what does that amount to?
"A. If you add $480,000 to the expenses arrived at, as above, of $3,749,458.88, it would make a total of $4,229,458.88."

The MASTER: I don't know that I quite understand the necessity of reading page after page of the testimony of another witness to this witness.

Mr. LADD: If I may read just one more, I will stop.

The MASTER: You may read two more if you will stop then.

Mr. LADD (Reading from Record):

"Q. And what is the difference?
4797 "A. $26,138.64."

All that testimony, and explanation of Mr. Ludlam's is ignored by you, in this Exhibit 29-*a*?

A. Yes, sir. The only intention of this Exhibit 29-*a* was to apply in the same way as Exhibit 11-*b* was used,—to apply your cost per ton per mile to whatever gross earnings you have here, and see how far it would come from the actual operating expenses.

Mr. HAGERMAN: We agree with you that Mr. Ludlam destroyed those Exhibits, right on the face of that.

Gen. HADLEY: We do not ask you to agree to any such thing as that.

Mr. LADD:

Q. Mr. Johnson, if you take the cost per ton, as shown by this testimony, based on certain figures which have been gathered, and take the cost per ton of the revenue freight, and multiply it by the revenue

tons of freight as ascertained by our experts in Exhibit 19, and add to that the $480,000 overcharge, as the state claims, on account of the Kansas City Terminals, it will make even more operating expenses than as shown by your exhibit 5-*a*, will it not?

A. If you will take the cost per revenue ton, rather than the cost per total ton?

Q. Yes, sir.

A. Adding the $480,000, it will make it a little more than that. In other words, it will be about $460,000 short of our $4,000,000.

Q. Instead of $829,000 short?

4798 A. Instead of $829,000 there would be a difference of probably $460,000.

The MASTER:

Q. Taking out the item of company freight?

A. Yes sir. That is, figuring it on the basis of the cost of revenue tonnage only.

Mr. HAGERMAN:

Q. But $829,000 on the same theory they have it prepared?

Mr. LADD: It makes a difference between what, the $460,000 and the $829,000?

A. About $460,000, I should say.

Q. That would be $370,000, about?

A. Yes sir.

Q. That is to say, if you had taken the cost of moving revenue freight, instead of the cost of moving all the freight, per ton, in this exhibit, it would have made this difference of $829,000, something like $370,000 less: is that right?

A. Yes sir.

Mr. HAGERMAN:

Q. That is upon the assumption that Mr. Ludlam's percentages are right?

A. Yes sir, 11 per cent, and I think that was the testimony at that time.

Mr. LADD:

Q. Mr. Johnson, please look at paragraph "*f*", the last one in your Exhibit 29-*a*, which reads in this way: "The result is that Exhibits 19, 28, 29, 30 and 31, when considered together, show their absolute unreliability."

Now, what relation, if you can tell me, have Exhibits 28 and 29 to Exhibits 30 and 31?

4799 A. I do not understand that Exhibits 28 and 29 have any relation to Exhibits 30 and 31. But, taking the cost as shown on Exhibits 28 and 29 as an indication of what it will cost per ton in the two classes of business, and applying it to the ton miles shown in Exhibits 30 and 31, they will not fit.

Q. Do you mean to say that if you apply Exhibits 28 and 29 to

Exhibit 31, it will show the operating expenses short of what they actually were?

A. Yes sir; that is, by taking the cost per ton, and reducing it to the cost per ton mile.

Q. Please look at Exhibit 31, on the second page, paragraph 7: doesn't that put the operating expenses at $4,234,884?

A. Yes sir.

Q. And that was the amount which you yourself fixed them at, until there was a reduction of something like $30,000, by some error?

A. Yes sir.

Q. This treats those operating expenses the same as you did?

A. But it also shows ton miles, in column 9.

Q. The operating expenses are the same as you gave us?

A. Yes sir, those operating expenses are the same. We are not contesting that.

Q. Please turn to Exhibit 5-*a*: that shows your total freight earnings, doesn't it?

A. Yes sir.

Q. Excluding the miscellaneous freight earnings?

A. Yes sir.

4800 Q. What was the per cent of freight operating expenses in Missouri of the earnings for the year 1905?

Mr. HAGERMAN: That is made up by a percentage table some place, isn't it?

Mr. LADD:

Q. Excluding the miscellaneous earnings.

A. I can get that for you.

Mr. HAGERMAN: I think that is in Exhibit 56.

Mr. LADD: If you have that in an exhibit, never mind that.

Did you hear Mr. Sturgis' testimony?

A. Only part of it.

Q. Do you recall that he testified that on the Burlington road the percentage of expenses to freight revenue was 57.59 per cent?

A. No sir, I do not recall that.

At this point, the further hearing of testimony herein was adjourned to Tuesday, April 2nd, 1907, at 9:30 A. M.

4801 KANSAS CITY, MO., *April 2nd*, 1907.

Met pursuant to adjournment as above, on Tuesday, April 2, 1907, at 9.30 A. M., in the Federal Building, in Kansas City, Missouri.

Present: Hon. F. L. Schofield, Special Master.

Mr. Frank Hagerman appeared in behalf of the Complainant.

Assistant Attorney General John Kennish, and Mr. S. B. Ladd, appeared in behalf of the Defendants.

The following proceedings were had.

Cross-examination of H. ROTH:

By Mr. LADD:

Q. Will you please take Exhibit 19*b*, Exhibit 5*c*, and Exhibit 19: Mr. Johnson was asked yesterday about bridge tolls, and stated that they were not included in the revenue from interstate freight for the month of October, 1905, as shown by Exhibit 5*c*?

A. No sir, they were deducted from those figures.

Q. What is meant by "bridge tolls", in that connection?

A. Those are the charges paid by us for transferring across various bridges. For instance, at Memphis, St. Louis and St. Joe.

—. I speak particularly now about Missouri: I want to leave out Memphis.

In this case, what is meant by "bridge tolls"?

A. That is what I am telling you. It is the amounts we have paid out to the bridges I have mentioned.

4802 Q. On Missouri freight?

A. On Missouri freight.

Q. Coming from the East, or going east, over those bridges?

A. Or going to St. Joe, Mo.

Q. What would those amount to, in the month of October, 1905?

A. I could not tell you the exact amount.

Q. You have not figured it out?

A. No sir.

Q. Can you make an estimate?

A. I should say about $20,000; probably a little less than that. I would not think it was quite that much.

Q. What would be the amount of bridge tolls, if you can make an estimate, which was deducted from Exhibit 5*c*, as shown by Exhibit 5*c*, and which were not deducted by our experts in their preparation of the work of October, 1905, as you understand that work was done?

A. You mean bridge tolls only, or all deductions?

A. Bridge tolls only.

A. The bridge tolls I should think amounted to about eleven or twelve thousand dollars.

Q. Is that on the east-bound business only?

A. Practically all. Well, there is some business moving west of our lines.

Q. What I want to ask is, would your estimate of $12,000 include the bridge tolls on the west-bound business?

A. That is mostly deducted from the way-bills themselves.

4803 That shows on the face of the way-bills.

Q. Where it was not deducted, is it included? It is not always deducted, is it?

A. No sir. Including that, it would be probably about $4,000.

Mr. HAGERMAN: You say here "Bridge tolls $20,000"; and then in another place, "Bridge tolls, $12,000."

Mr. LADD: He takes in some we do not.

The WITNESS: Memphis, and St. Joe.

Mr. HAGERMAN:

Q. Does it pertain to Missouri business?

A. Yes sir. Mr. Ladd asked me what all the bridge tolls were, and I said about $20,000. Then he asked me what were the bridge tolls that were deducted separately. There is a certain amount that is shown on the face of the way-bills, and a certain amount that is not. Most of the west-bound freight over the St. Joe bridge is deducted on the face of the way-bills, and the east-bound freight is not. And also the west-bound freight beyond our own lines is not.

Mr. LADD:

Q. There is about $14,000 which the State's experts did not deduct, which has been deducted in the October showing, as appears by Exhibit 5*c*: that is right?

A. On account of that particular item. There was a whole lot that was deducted. That was by no means the only deduction.

Mr. LADD: I am speaking particularly about bridge tolls, because they say they did not deduct bridge tolls.

Q. Now, Mr. Roth, if you will take Exhibit 36*b*, you will observe that in paragraph "*b*" of that exhibit you say that the trans-
4804 portation records of your company show the trains handled on the eastern division during the month of September, 1906, to be the number stated in that exhibit.

I will ask you now what constitutes the "Eastern Division"?

A. The Eastern Division constitutes the track between St. Louis and Kansas City, the main line and the River Division.

Mr. HAGERMAN:

Q. That is, all the lines between St. Louis and Kansas City?

A. Also the Bagnell Branch, the Versailles Branch, the Warsaw Branch, and the Lexington Branch.

Mr. LADD:

Q. You have mentioned everything now that is included in the Eastern Division, have you?

A. Practically everything, I think.

Q. Be sure you get everything. I don't know what it is myself.

Mr. HAGERMAN: As I understand, it includes everything, the main line from Kansas City to St. Louis, and all the branches, except the Joplin Branch.

Mr. LADD: I am asking the witness about it.

A. In this paragraph "*b*" of Exhibit 36*b*, it refers to the Eastern Division, and the St. Louis Terminal Division: are you including the St. Louis Terminal Division?

Q. This paragraph "*b*" says, "An examination of the records of the transportation department shows trains actually handled on the Eastern Division, during the month of December, 1906, as follows": My question is, what is the "Eastern Division?

4805 A. All track between Kansas City and St. Louis, main line and branches.

Q. What are Branches? What do you include in the main line between St. Louis and Kansas City——

A. All the branches.

Q. Wait a moment. In the main line between St. Louis and Kansas City, you include what has been called the "Low Line"?

A. Yes sir.

Q. And the line that runs through Sedalia?

A. Yes sir.

Q. What are the branches?

A. There is the Carondelet Branch, to start with.

Q. Well, what else?

A. The Creve Coeuer Lake Branch.

Q. What else?

A. The Kirkwood Branch.

Q. What else?

A. The Bagnell Branch.

Q. What else?

A. The Versailles Branch.

Q. What else?

Q. The Warsaw Branch.

Q. Anything else?

A. The Lexington Branch.

Q. What else?

A. That is practically all.

4806 Q. You say "practically all:" Is it all?

A. Yes sir, that is all.

Q. Those you say are all in the Eastern Division?

A. The Eastern and Terminal Divisions.

Q. I am asking you about the Eastern Division: which of those you have enumerated here are in the Terminal Division?

A. Oak Hill.

Q. You have not mentioned that, or if you did I did not hear you.

Q. You didn't hear it.

The MASTER: Is that the same as the Carondelet Branch?

A. Yes sir.

Mr. LADD: Q. The Carondelet Branch I got: is that in the Terminal Division?

A. Yes sir.

Q. What else?

A. Creve Coeuer Lake.

Q. What else?

A. The Kirkwood Branch.

Q. Anything else?

A. No, sir.

Q. When you say there are so many through trains, and so many way freight trains in the Eastern Division, do you mean to include in the Eastern Division the Carondelet Branch, the Creve Coeuer Branch, and the Kirkwood Branch, which are in the St. Louis Terminal Division?

A. Yes Sir.

4807 Q. Can you tell me how many trains there are in the Eastern Division, leaving out the St. Louis Terminal Division?

A. These trains I have given here are all in the Eastern Division. Our statistics include the Terminal Division trains.

Q. Your statistics for the trains in the Eastern Division include the trains in the Terminal Division: is that right?

A. Yes sir.

Q. How long is that Carondelet Branch? Where does it run to and from?

A. It runs from St. Louis to Carondelet.

Q. How long is it?

A. Eleven miles.

Q. How long is the Creve Coeuer Lake Branch?

A. About twelve miles.

Q. How long is the Kirkwood Branch?

A. Twelve miles.

Q. This statement says there are 579 through trains in the month of December on the Eastern Division: where do those trains start, and where do they run? You have practically the same number each day?

A. Practically, yes.

Q. Take one day, then.

A. It is impossible to tell where 579 trains run every day.

Q. The 579 are scattered over a month, aren't they?

A. Over a month, I should say.

4808 Q. I say, take it daily.

A. Most of the through trains run between St. Louis and Kansas City and beyond.

Q. You say there are 579 through trains: how many would that be a day?

A. (After calculating.) About twenty-four.

Q. How many days do you count in the month?

A. These are through trains—Excuse me, I was thinking of local trains. (After calculating.) About eighteen.

Q. About eighteen a day?

A. Yes sir.

Q. I wish you would tell me where those eighteen trains start from and where they run to?

A. They start chiefly from St. Louis; from St. Louis to Kansas City, and Kansas City to St. Louis.

Q. Mr. Roth, I fancy this statement has been prepared with considerable care. I wish you would give me the details of it.

A. I have no details of it.

Q. Where did you get the figures?

A. These figures are simply taken from our regular transportation statistics. They ought to show that the State's assumption of two local trains a day, covering the whole Eastern Division, is not correct, and are intended for no other purpose. If your experts desired to verify these figures, they could have done so last week when they were in St. Louis.

4809 Q. Never mind about that. I am asking you where those eighteen daily trains start from, and where they go, if you can state?

A. Generally, from Kansas City to St. Louis; maybe from St. Louis to Sedalia.

Q. Can you tell where they start from and where they go to?

A. Not now I cannot.

Q. You have not the information?

A. No sir, I have not the information.

Q. Suppose a through train starts from St. Louis and goes to Kansas City: how many trains do you call that?

A. I call that one through train.

Q. That is one of your eighteen: is that right?

A. I presume that is right.

Q. You do not call it one train to Jefferson City; another train from Jefferson City to Sedalia; and another train from Sedalia to Kansas City?

A. Not where it has the same number.

Q. Suppose it did not have the same number: would you call it three trains?

A. No sir, then I would not.

Q. Now, you say, in the same connection, there are 353 local trains. The way this is written I don't know whether you intend to treat the local as a way-freight train or not: do you?

A. Yes sir.

Q. The locals, ordinary freight, mixed freight and pas-
4810 senger, are all bracketed opposite "Way freight trains": is that right?

A. Yes sir, that is right.

Q. And you call those way freight trains?

A. Yes sir, if they all do that class of business.

Q. Where do those locals run?

A. They run from one division point to another; for instance, from St. Louis to Jefferson City.

Q. Are those on the main line?

A. Some are on the main line, and some are on the branches.

Q. What is an "ordinary freight train"?

A. An ordinary freight train is usually carload freight, doing business at way stations.

Q. Where do those ordinary freight trains run?

A. Also between division points.

Q. Mr. Roth, don't you call a train which runs from St. Louis to Jefferson City, loaded with carload freight, a through train?

A. Yes sir.

Q. You do?

A. Yes sir.

Q. You call that a through train?

A. If it does not stop between St. Louis and Kansas City, I call it a through train.

Q. I am talking about Jefferson City.

A. If it does not stop between St. Louis and Jefferson City, I call it a through train.

4811 Q. Do you call a train of carload freight between Jefferson City and Sedalia a through train?

A. Yes sir.

Q. Through trains, as recorded here, do not necessarily run from St. Louis to Kansas City?

A. No sir.

Q. Aren't some of your through trains, which you call "through trains," which run between St. Louis and Kansas City—don't they count sometimes as two or three trains?

A. I do not think so, sir.

Q. You don't think so?

A. No sir.

Q. You had 773 ordinary freight trains: can you tell where they started from, or where they run to?

A. No sir, I cannot tell that.

Q. I will read from your book entitled "Missouri Pacific Railway Company's Instructions Governing the Movement of Freight": you have seen this book and are familiar with it?

A. Yes sir.

Q. "Ordinary freight will consist of all commodities in carloads, not specified as Red Ball or Green Ball"?

A. Yes sir.

Q. Are those instructions followed?

A. Where it is possible, I assume they follow them.

Q. When you speak of ordinary freight in this Exhibit 36-*b*, you mean a train which consists of carload lots, do you?

A. Yes sir.

4812 Q. Do you mean that such a train as that would distribute the freight, and take it up at intermediate stations, if it was in carload lots?

A. Undoubtedly. That is the chief business they do.

Q. Would an "ordinary freight train," within the meaning of that expression as you have used it in this exhibit, ever be loaded at St. Louis and go through to Kansas City without any change in its composition?

A. No sir.

Q. It would not?

A. No sir.

The MASTER:

Q. The term "ordinary freight," as used in this Exhibit, means freight trains loaded exclusively with carload lots, other than Green Ball or Red Ball trains: is that correct?

A. Yes sir, that is correct. It means way freight carload trains.

Mr. HAGERMAN: As distinguished from through?

The MASTER:

Q. It may mean ordinary freight out from St. Louis?

A. I don't think we have any ordinary freight through from St. Louis to Kansas City.

Mr. LADD:

Q. Do these ordinary freight trains run on branch lines?

A. I don't think so. Unless you call the Low Line a branch line.

Q. You don't call that a branch line, do you?

4813 A. No sir. Also the Lexington Branch. That is hardly considered a branch line.

Q. You have here, "mixed freight and passenger trains": what lines do they run on?

A. They run on the Bagnell Branch, Versailles Branch, and the Warsaw Branch.

Q. There are no ordinary freight trains run on those branches?

A. No sir.

Q. And no through trains?

A. No sir.

Q. There are no through trains run on any of the branches, are there?

A. No sir.

Q. No through trains run on any of the branches?

A. No sir.

Q. So that on the branches, the local trains and the mixed freight and passenger trains—that is, those are included in the 353 locals, and the 208 mixed freight and passenger, and they do all the freight business of those branches, don't they, both state and interstate, carload and less than carload?

A. Undoubtedly.

Q. Mr. Roth, what kind of trains run on the Carondelet Branch, the Creve Coeuer Lake Branch, and the Kirkwood Branch?

A. Local freight trains.

A. Any mixed freight and passenger trains?

A. No sir.

4814 Q. How many trains a day are there on the Carondelet Branch, of that kind, each way?

A. One or two, I believe. There is one scheduled train, but there may be several extra trains.

Q. That runs from St. Louis to Carondelet, does it?

A. Yes sir.

Q. Are there any stations between St. Louis and Carondelet?

A. There are a whole lot of industries.

Q. Industries?

A. Yes sir.

Q. Where you deliver freight?

A. Where we collect freight.

Q. That business is practically switching: that is in the Terminal Division, isn't it?

A. No sir, that is revenue freight—all of it.

Q. You run regular trains on schedule time, from St. Louis to Carondelet?

A. Yes sir.

Q. How many?

A. One a day.

Q. How much freight do they carry?

A. A considerable amount. I cannot tell you the exact tonnage they carry.

Q. How many cars, on an average, do those trains carry?

A. I have no idea.

4815 Q. Five?

A. More than that, I should think.

Q. What?

A. I should think considerably more than that.

Q. Both ways?

A. Yes sir, both ways.

Q. Each way, one train a day, and the entire length of the road is eleven miles?

A. The entire length of the road is eleven miles.

Q. Take the Creve Coeuer Branch. Is there a town there? I have never been out there?

A. Yes sir.

Q. That is twelve miles long?

A. Yes sir.

Q. How many regular local trains do you run on that road?

A. There is one each way, I believe.

Q. How long are those trains,—how many cars?

A. Oh, they might run fifteen or twenty cars, at times.

Q. How do they run, on an average?

A. I couldn't tell you that. There is a very large volume of business that moves on that track.

Q. And it is twelve miles long?

A. Yes sir.

Q. Take the Kirkwood Branch: How many trains do you run between St. Louis and Kirkwood?

A. I believe one.

Q. Is that a heavy train?

4816 A. As a rule it is,—yes. It would be heavier than the other because it hauls Iron Mountain freight.

Q. Those are all within the Terminal Division at St. Louis?

A. Yes sir.

Q. Is the work of handling these trains charged up to the Terminal Division at St. Louis, as a part of the terminal expense?

A. I presume it is—yes.

Q. In this Exhibit 36*b*, in the latter part of paragraph "*c*," you say that the average number of gross ton miles of the through trains is 99,243: that is right, isn't it?

A. Yes sir.

Q. And the gross ton miles of the local trains is on the average 43,282; and there are 579 through trains: how many gross ton miles, according to those figures, are in those through trains?

(Witness calculates.)

The MASTER: I suppose this average would be computed from Exhibit 14*a*, to which this exhibit relates. Exhibit 14*a* gives the average loads for the trains examined.

Mr. LADD: No sir, it is entirely independent of Exhibit 14*a*.

A. 57,461,697, on the through trains.

Q. And you say, in this exhibit, there are 1334 way trains, handling on the average 43,252 tons each?

A. Yes sir.

4817 Q. How much, on the average do those trains handle?

A. (After calculating.) 57,738,188.

Mr. HAGERMAN:

Q. How do you get that example, Mr. Roth?

A. By multiplying the number of ton miles by the number of trains.

Mr. LADD:

Q. Mr. Johnson said yesterday: Those are gross ton miles, aren't they?

A. Yes sir.

Q. Mr. Johnson said yesterday that the freight, he thought, would average fifty or sixty per cent of the gross tonnage; do you agree with him?

A. The gross tonnage—yes.

Q. He said gross ton miles meant the ton miles back of the engine, including all the weight of the cars: that is right, isn't it?

A. Yes sir, that is right.

Q. And he thought the weight of the freight would be probably fifty or sixty per cent of the total gross weight?

A. About fifty.

Q. You say fifty?

A. Somewhere between fifty and sixty per cent.

Q. To illustrate the matter, I wish you would figure what sixty per cent of the gross ton miles carried on the through trains is: that is, sixty per cent of 57,461,697.

A. (After calculating.) 34,477.018.

Q. The figures you have just given me are ton miles of freight: that is right, is *is* it not?

A. No sir.

4818 Q. Why not?

A. The gross ton miles hauled by those trains—they are not ton miles of freight.

Q. Assuming the freight is sixty per cent of the gross tonnage?

A. You could hardly apply that.

Q. Why not?

A. You are not accounting for your empty cars that may be in the trains.

Q. We are taking the average of the trains.

Q. You couldn't do that on a sixty per cent basis?

Q. Suppose you do it, any way. Please take sixty per cent of the gross ton miles of the local trains: that is 60 per cent of 57,738,188.

A. That is 34,642,912.

Q. Now add those together.

A. It makes 69,119,930.

Q. If that method of calculation is a correct one, the net tonnage of the through trains and the way trains, then, is 69,119,930 ton miles, isn't it?

A. Yes sir, if that calculation is correct.

Q. That is on the Eastern Division alone?

A. The Eastern and Terminal divisions. The whole business between St. Louis and Kansas City, main line, and River Division.

Q. That is for December, 1906, is it?

A. That is for December, 1906.

4819 Q. The total ton miles of freight during the month of October, 1905, as shown by Defendant's Exhibit 19, was 56,318,587: that is correct, isn't it?

A. I don't know whether it is correct.

Q. I mean those figures?

A. As on Exhibit 19.

Q. According to that same Exhibit 19, the total ton miles of state freight during November and October, 1905, was 7,872,906, wasn't it?

A. Yes sir.

Q. How does the October business compare with the December business, generally?

A. It is impossible to compare one year with another.

Q. How was it by Exhibit 5-*c*?

A. That was the year 1905, and this is 1906.

Q. Just answer my question. How was it according to Exhibit 5*c*, in 1905?

A. October was about 57,000 more than in December.

Q. How much heavier do you suppose, if you suppose it would be heavier at all, the business would be in December, 1906 than it was in October, 1905.

A. I have no idea.

Q. Well, it couldn't exceed 25 per cent more, could it?

A. I should think not.

Q. If the total ton miles of state freight during the month of October, 1905, as shown by Exhibit 19, were 7,872,906, assume for the purposes of my question that the total number of ton

4820 miles of state freight in December, 1906, were 10,000,000; that is more than 25 per cent more. Then, if your local trains, according to the figures you have worked out, carried 34,642,917 ton miles, and there were 10,000,000 ton miles of state freight, those local trains, even if they carried all that state freight, must have carried nearly 24,000,000 ton miles of interstate freight?

Mr. HAGERMAN: That is objected to. The thing he was contending for yesterday was that you could not include in these estimates Company freight. Now, the 34,000,000 would include the Company freight. In other words, the State cannot blow hot and cold.

The MASTER: Whatever inconsistencies may occur, of course may be pointed out. I think so far as the question is concerned it is all right.

Mr. LADD: I will withdraw that question.

Q. Assume, then, that 34,642,917 net ton miles of freight includes the Company freight, and deduct 4,642,917 for the company freight (that would be more than 10 per cent), and make it an even 30,000,000 ton miles: If the local trains, then, carried 30,000,000 ton miles

of freight of all kinds, both state and interstate, there were 10,000,000 ton miles of state freight, then those local trains, even if they carried all that state freight, must still have carried about 20,000,000 tons of interstate freight: isn't that so?

Mr. HAGERMAN: That is objected to as involving so many assumptions not consistent with the testimony, that it is of no value.

4821 Mr. LADD: Every assumption is based on the testimony.

The MASTER: It is a submission to the witness, as an expert, of an hypothesis, assumed by counsel, in one view of exhibits already filed. I think that is well enough.

Mr. HAGERMAN: When he gets through his assumptions, he assumes everything; that 20,000,000 is interstate, and that 10,000,000 is state. But it is not based upon any facts at all. It is a mere mathematical calculation, that it does not need a witness to record.

The MASTER: I think that is true, but in this sort of an examination I think it is proper enough.

A. It is right, as a matter of calculation, as you put it, but not right otherwise. This does not represent the state tonnage, as I have tried to explain.

Q. And it is true, isn't it, although the assumption that the total ton miles of state freight was 10,000,000 is bases upon Exhibit 19, which takes in all the business in the State of Missouri, and not the Eastern Division alone?

A. Yes sir.

Q. You may state why that is not fair. You said it was not, now why not?

A. In what respect?

Q. You said that wasn't fair. Why not?

A. You are assuming that 60 per cent of the 57,000,000 gross ton miles represents the net tonnage, and I say it does not represent the net tonnage. When you asked me what percentage I thought the net tonnage was of the gross tonnage I said sixty per cent. By that I meant that the gross tonnage of a car would be 100 per cent,

4822 but the net tonnage would be from fifty to sixty per cent of that gross tonnage. I did not include any empty cars that might be hauled in the trains.

Q. Didn't you say "everything back of the engine"?

A. I did not have that in mind.

Q. This does not involve the number of cars, does it? Your Exhibit 36*b* simply involves the number of trains?

A. The ton miles given there are merely as a matter of comparison between the local trains and the through trains. It does not purport to be, or to give any idea of the actual number of revenue ton miles hauled on those trains. It is merely a comparison between the two classes of trains.

Q. Your Exhibit 36*b* does not have any reference at all to the number of cars, or to whether they are empty cars, or whether they are loaded cars, does it?

A. No, sir.

Q. You say the average of these 1134 trains which you run; and

the trains may be made up of empty cars and loaded cars; and you say the average gross tonnage of those 1134 trains is 43,392 tons?

A. Yes sir.

Q. And then I asked you what percentage of that would be the weight of the freight, and you said fifty to sixty per cent, and Mr. Johnson said the same thing yesterday?

A. I didn't mean it that way. You did not ask me what percentage of that 99,000 tons was revenue freight.

The MASTER:

Q. Your gross tonnage does not include the empty cars hauled: is that the idea?

4823 A. It does include the empty cars.

Mr. HAGERMAN:

Q. As given in Exhibit 36-*b*?

A. It would include it in both local trains and on the through trains. We were unable to separate it.

May I make an explanation about that?

The MASTER: Certainly.

A. That gross ton mileage was simply inserted to show the comparative weight in ton miles hauled on local and through trains, as compared to what the weight would be on those trains by our Exhibit 14-*a*, and Exhibit 15. Those figures were taken from our transportation statistics, and there has been absolutely no change made on them. Now, it is impossible to explain the extent to which empty cars are included in those figures. Any empty cars hauled on those trains would naturally increase that gross ton mileage. But when Mr. Ladd asked me what percentage, I thought the net ton miles bore to the gross ton miles, I had in view the weight of the car, and the weight of the contents of the car, and, therefore, said, "fifty to sixty per cent." The actual difference, of course, is very much greater than that, when you take all your empties into consideration. But these figures were given, not to give the gross ton miles on the Eastern Division, but merely to show the comparison per train, comparison with the weights shown on Exhibits 14-*a* and 15.

Mr. HAGERMAN: What you mean to say is, that 60 per cent of the gross you gave——

Mr. LADD: I would rather the witness would explain this. I would rather not have the cross-examination interrupted.

4824 The MASTER: It has been done heretofore without objection, but, of course, if objection is made, it will have to be sustained.

Mr. HAGERMAN: I sat here yesterday and permitted Gen. Hadley to interrupt me, without any objection whatever.

The MASTER: I know you did. But, your objection would have been sustained if you had made it.

Mr. LADD:

Q. Have you anything further to say about that?

A. No sir, that is all.

Q. See if I am right: you said you put this exhibit in to make a comparison with the tonnage as shown by Exhibits 14-*a* and 15: is that right?

A. Yes sir.

Q. What is the average number of tons on each local train, as shown by your Exhibit 14-*a*?

A. 204 tons.

Q. What is the average number of tons on your through trains, as shown by Exhibit 15?

A. 470.

Q. What percentage is 204 of 470?

Q. 43 and a fraction.

Q. What is the percentage of the gross tonnage of your local trains, 43,282, of the percentage of your through trains, as shown in Exhibit 46-*b*, 99,243?

A. 43 and a fraction.

Q. The percentage is the same, is it?

A. Yes sir.

4825 Q. While Exhibit 14-*a* dealt only with loaded cars?

A. Exhibit 14-*a* dealt only with loaded cars.

Q. The actual weight of the revenue freight?

A. Yes sir.

Q. And Exhibit 15 also dealt with loaded cars, actual weight of revenue freight?

A. Yes sir.

Q. One being local and one being through?

A. Yes sir.

Q. And you say your Exhibit 36-*b* deals necessarily with some empty cars, and some Company freight?

A. Yes sir.

Q. How do you explain that the percentage is the same?

A. I cannot see any reason why the percentages should not be the same. In the first place, one is ton miles, or tons one mile; and the other is tons. It can at the best be only a rough comparison, and it does not follow that if you were to eliminate your empty cars from these ton mile figures that the percentages would materially vary, except in so far that they would be governed by the length of the haul. When you are dealing with ton miles the length of the haul cuts some figure, whereas in Exhibits 14*a* and 15 that is not taken into consideration at all.

Q. But the fact remains that the percentages are the same in both these cases?

A. They are, for the reason that on your through trains your ton miles are increased perhaps two or three times by the distance

4826 hauled, over the local business. It would be very hard to explain why they are the same percentages, for that reason. You cannot tell the relative proportion.

Q. According to the figures which you made for me, assuming my processes were correct, it appeared that 20,000,000 tons of interstate freight must have been carried on these way trains, didn't it?

A. According to your figures, yes—Or, rather, the figures I worked out for you.

Q. As against 10,000,000 tons of state freight?

A. Yes sir.

Q. And that in the 10,000,000 ton miles of state freight was included the state freight hauled on every part of the system in Missouri?

A. Yes sir.

Q. While on the 30,000,000 tons, according to your figures, it was only the Eastern Division?

A. Yes sir.

Q. That left 20,000,000 tons of interstate freight to be hauled on the local trains, didn't it, even with that disadvantage?

A. On the basis of those figures—yes.

Q. You say there are some empty cars, and, therefore, it would not be fair to say that sixty per cent of the gross ton miles would be freight. Allowing for that, how much would this 20,000,000 tons be reduced?

A. I couldn't possibly say. I could not make an estimate on that.

4827 Q. Please take Complainant's Exhibit 11-*a:* your first item is "Freight consigned to or from Kansas City, Mo., including Grand Avenue;" and the next one is "Freight consigned to or from Kansas City, Kansas;" making a total of 251,984 tons: is that right?

A. Yes sir.

Q. In the shipments to or from Kansas City, Kansas, that is to say the 2,458 tons, did you include the shipments to and from the packing houses and other industries in Kansas City, Kansas, or any of them?

A. No sir. We have practically no direct connection with any packing houses in Kansas.

Q. Does not your road take shipments from any of the packing houses in Kansas City, Kansas?

A. As far as I recollect, sir, we only take it into one packing house.

Q. I am not asking you about direct connection: I am asking you don't you carry any shipments on your road which come from the packing-houses in Kansas City, Kansas?

A. Yes sir.

Q. Is that included in the 2,458 tons to and from Kansas City, Kansas?

A. No sir.

Q. Where is it included?

A. In the Kansas City, Mo.; that is where we receive it.

Q. It is included in the 249,526 tons, is it?

A. Yes sir.

4828 Q. In that first item 251,984 tons, which purports to be freight consigned to or from Kansas City, Mo., and Kansas City, Kansas, do you include freight going through Kansas City,

from the East to the West, or coming from the West and going East, passing through Kansas City? What is called re-billed freight.

A. Yes sir, any freight that was actually consigned on the way-bills to Kansas City, so far as our records showed, was included in that.

Q. You included, then, for instance, freight which was destined from Denver, and came over the Union Pacific to St. Louis?

A. I do not think there would be any of that included; no sir.

Q. Would you include it?

A. We would, if there happened to be a shipment of that kind.

Q. How much did the re-billed freight amount to, re-billed at Kansas City?

A. About 13 per cent.

Q. How much of it was there?

A. About 35,000 tons.

Q. 35,686 tons?

A. I haven't the exact figures.

Q. That is about it?

A. Yes sir, that is about it.

Q. What kind of freight is that? Where did that freight come from—to illustrate?

4829 A. It is chiefly freight originating at Missouri points, destined to points in Kansas and Nebraska, or all points in Missouri—or the reverse. It would also include freight from points beyond Missouri to points beyond Missouri.

Q. It was not intended to stop at Kansas City, Mo., or Kansas City, Kansas, was it?

A. No sir.

Q. It was to go through?

A. Yes sir.

Q. And because——

A. But our revenue ceased at Kansas City.

Q. And because you simply re-billed it, a carload of freight, say, shipped from Denver to St. Louis, and coming to you over the Union Pacific to be carried by you from Kansas City to St. Louis, just because you re-billed it you treated it as though it was consigned to Kansas City, Mo.?

A. Treated it as if consigned from Kansas City, Mo.

Q. And that amounts to 35,000 tons of that 251,000?

A. Well, no; that is all one way.

Q. I use that simply as an illustration.

A. Yes sir, that is the amount, 35,000 tons.

Q. And this 251,984 tons, which you say were consigned to or from Kansas City, Mo., and Kansas City, Kansas, there were 35,686 tons of that, not one pound of which was started from Kansas City originally, or was intended to stop at Kansas City: isn't that true?

A. Yes sir.

Q. How is the live stock business to and from the Kansas

4830 City stock yards treated in Exhibit 11-*a*?

A. That depends on where it moved from, Mr. Ladd. If it moved from points south, southwest, and east of Kansas City, it

would be treated as Kansas City business; if it moved from points north of Kansas City, it was shown under that separate item of 50,000 tons, which are also included in the 251,000 tons.

Q. Your item 2 of Exhibit 11-*a* speaks of 50,476 tons; and down below, at item 7, are the same figures, 50,476 tons, on which it says "Missouri gets no freight earnings": are those two figures in items 2 and 7 referring to the same tons?

A. Yes sir, to the same tons.

Q. Do you mean to say that on all this freight mentioned in this Exhibit 11, Missouri does get some revenue, except upon 50,476 tons of it?

A. Yes sir.

Q. Now, look at Item 4, dealing with the figures 157,516 tons: how is that made up?

A. That is freight passing east and west through the Kansas City terminals.

Q. Wouldn't that include also some business which was interchanged here, but was traveling on through billing?

A. Undoubtedly.

Q. How much?

A. I couldn't say.

Q. Don't you think some part of that was on the northwestern lines, from which Missouri gets no revenue?

A. No sir.

4831 Q. You think Missouri got some revenue from every part of the 157,000 tons?

A. Yes sir.

Q. Now, look at Item 5: how did you get those figures, the 39,379 tons?

A. That is an estimate. In other words, it is 25 per cent of 157,000 tons.

Q. Look at paragraph 4, please: I will ask you if there is any description of freight which passes through these terminals, which is not included in the 157,516 tons?

A. Any Company property that might pass through would not be included. All revenue freight would be included.

Q. It is all included in there, is it?

A. Yes sir.

Q. Wasn't there some coal that went upon the Central Branch, and went through those terminals, that was not included?

A. Only Company property coal.

Q. Where was it used?

A. At Atchison, and points west of Atchison.

Q. Didn't the Missouri lines get any revenue for carrying it?

A. They did in a way, yes sir.

4832 Redirect examination.

By Mr. HAGERMAN:

Q. Referring now to this Exhibit 11-*a*, what do you mean by re-billed freight?

A. It is freight destined to some station beyond the point to which it is consigned by the first way-bill. That is to say, stations that have no through billing arrangements with foreign lines have their freight consigned to the nearest local transfer point, where it is re-billed.

Q. So that, as far as the Missouri Pacific was concerned, it was an original shipment by it to or from Kansas City?

A. Yes sir.

Q. And that aggregates 35,682 tons, or about 13 per cent?

A. 13 per cent, and a small fraction.

Q. Look at Item 2, of Exhibit 11-*a*, of the proportion of the whole stuff coming into Kansas City, that on the Omaha Division and northern lines is 12.32 per cent?

A. Yes sir.

Q. Apply that to the 13, and it makes 1.6 per cent of the whole, doesn't it?

A. Yes sir.

Q. So, if you allowed these gentlemen that re-billed freight, as they claim, it would be so insignificant, so far as cutting any figure in the results of your exhibit, that it would not be worth while to figure it out, would it?

A. I don't quite follow you.

4833 Q. It is 13 per cent of the whole, the 35,000 tons?

A. Yes sir.

Q. And if we are going to allot such per cent of that to this northern line as is shown by the percentage in item 2 of Exhibit 11-*a*, it would be 12.32 per cent of the 13 per cent, wouldn't it?

A. Yes sir.

Q. Or, 1.6 per cent?

A. Yes sir.

Q. I say that figure carried out through your exhibit would cut such little figure in the final result that it would not be worth while to take any account of it?

A. That is right.

Q. Item 5 in this Exhibit 11-*a*, you say is an estimate: that is an estimate after you had gone through the accounts, and from your familiarity with them?

A. Yes sir.

Q. And you believe that to be correct?

A. Yes sir, I believe that to be correct.

Q. In dealing with Exhibit 36-*b*, something was said about the gross ton miles as shown by that exhibit, and then you were asked to multiply the gross through ton miles and the gross local ton miles by the number of through and the number of local trains respectively, when you got a result in each case of something like 57,000,000, or in excess of 57,000,000?

A. Yes sir.

Q. That represented the gross ton miles, everything in the train back of the engine?

4834 A. Yes sir.

Q. Then you were asked to make an estimate of what proportion of the gross tonnage was the freight tons?

A. Yes sir.

Q. And you said 60 per cent. Now, as I understood you, and you started to explain, when I was interrupted, what you meant to say was that that 60 per cent represented the gross ton miles of the freight upon the cars in those trains that were carrying freight?

A. That is what I intended.

Q. And you had made no estimate whatsoever of the percentage, or what the percentage would be as to the empty cars that were carried in those trains?

A. No sir, it would be impossible to do that.

Q. This estimate of tonnage also included Company freight didn't it?

A. Yes sir; all freight of every description that was carried.

Q. Those figures you have given in Exhibit 36-*b* were made up from statistics in the transportation department to which these people have had and now have access, if they want to check up and see if they are correct?

A. They have had, and could have had.

Q. What you mean to say is that you have not the details of it here, to answer the questions in detail?

A. That is right.

Q. But those figures are given in those statistics, and that is what you base your statement on?

4835 A. Yes, sir.

Q. In dealing with Exhibits 5-*c*, 19 and 19-*a*, Counsel stopped with bridge tolls: You estimated that there was something like $14,000 of bridge tolls which the state's experts did not deduct in their Exhibit 19?

A. In round numbers, yes.

Q. Was there any difficulty in the way, if they had wanted to make the deduction, to their doing that?

A. I don't think so.

Q. Counsel stopped with bridge tolls, although yesterday there was included in connection therewith some other items. I do not understand what connection they have with it, but the item was "Bridge tolls, transfers and claims." Are transfers and claims something in addition to bridge tolls?

A. Claims are.

Q. What are "transfers?"

A. The same thing as bridge tolls.

Q. What are "claims?" That is to say, Mr. Johnson was asked, and the assumption was made, that Mr. Ludlam deducted nothing for claims: what does that mean, in making up Exhibit 19?

A. Those claims are chiefly corrections made subsequent to settlement with the agent, for any bill. There may be an error in weight, or an error in rate, and if the correction is made after we have settled with the agent, there is a general entry made for

4836 that, and he is charged or credited with the difference.

Q. I dont' care about the details of it. I am simply asking that because the question was put to Mr. Johnson—and I will show you in a minute what I am trying to get at—and his language

was, "Mr. Ludlam said he deducted nothing for bridge tolls, transfers and claims:" Your answer to it was, "Bridge tolls:" Now would there be anything in addition for the other two things?

A. Yes, sir.

Q. How much, in round numbers?

A. As near as I can estimate it, it would be about $15,000. The whole deductions for the month of October should be about $29,000.

Mr. HAGERMAN: Mr. Ludlam, if the thing you did not deduct was simply "Bridge tolls," and that was $14,000, that is what I want. If there was something else you did not deduct, let us have the whole thing.

Mr. LUDLAM: How much did Mr. Roth deduct?

Mr. ROTH: $29,000 for all the things combined.

Mr. LUDLAM: Will you mind asking him, Mr. Hagerman——

Mr. HAGERMAN: If you two can agree about it, that is all I want to get. You may ask him yourself.

NOTE.—At this point Mr. Ludlam and Mr. Roth examine papers.

Mr. HAGERMAN:

Q. Mr. Roth, can you and Mr. Ludlam check up to estimate whether the total thing is $14,000, $17,000 or $29,000? I don't care what it is, so we know what they did not deduct?

4837 A. When these experts checked it, they had those deductions detailed on our sheets, and all they had to do was to take off the details, and they would have the amount. I cannot recollect what they were.

Q. You think they aggregate $29,000?

A. I think so.

Mr. HAGERMAN: Mr. Ludlam, what do you think it aggregates?

Mr. LUDLAM: I haven't made any estimate on it.

Q. Can Mr. Taliaferro give the answer?

Mr. TALIAFERRO: Mr. Roth's figure includes certain bridge tolls that were deducted in making up our statement.

Q. That may account for it. What is the total amount that you did not deduct, is what I want to get at, in addition to the $14,000 for the bridge tolls?

Mr. TALIAFERRO: Very roughly, $16,000 to $18,000 is my idea.

Q. For everything?

Mr. TALIAFERRO: Yes, sir.

Q. Including Bridge Tolls?

Mr. TALIAFERRO: Yes, sir.

Mr. LADD: He is trying to get at how much in addition to bridge tolls you did not deduct, which they included. Mr. Roth says about $14,000 bridge tolls: How much in addition to that did you deduct?

Mr. TALIAFERRO: My idea would be $3,000 or $4,000.

Mr. HAGERMAN: That is near enough for the court to get the idea. It is not important enough to follow it up.

4838 Recross-examination of F. P. JOHNSON:

By Mr. LADD:

Q. Mr. Johnson, I asked you to figure on some percentages for me last night: do you remember what it was?
A. Yes sir, I have a memorandum here.
Q. What was that?
A. You asked me to give you the percentage of expenses to earnings in Missouri.
Q. In 1905?
A. For the year 1905.
Q. That is, the total freight expenses to total freight earnings: was that the question?
A. I was not sure whether you wanted to exclude the earnings incidental to freight, or include them. I have both.
Q. Give both.
A. The percentage of expenses to earnings, excluding switching, was 77.69.

Mr. HAGERMAN:

Q. What is the 100 per cent?
A. Freight earnings are 100 per cent, and the expenses are 77.69 of the freight earnings.

Mr. LADD:

Q. Do you include in the freight earnings the miscellaneous freight earnings?
A. No sir, I have excluded them.
Q. Include them, and what is the percentage?
A. Including miscellaneous earnings, the percentage of expenses to earnings would be 74.17.

4839 Redirect examination.

By Mr. HAGERMAN:

Q. Something was said about your Exhibit 19-*b* not showing how the live stock shipments at the stock yards were treated: neither did Exhibit 19, did it, on its face?
A. No, sir.
Q. And there was no occasion in Exhibit 19-*b* to make any showing, for the purpose for which it was prepared?
A. No, sir, I didn't think there was.
Q. You did not give any estimate as to the bridge tolls: that is a matter you left to Mr. Roth, I believe?
A. Yes, sir.
Q. You gave an estimate now that the gross tons mentioned in Exhibit 36-*b*, paragraph "C"—that the gross tonnage of the freight was from 50 to 60 per cent of the total tonnage. You heard what Mr. Roth said that his estimate of 50 to 60 per cent was based upon the per cent of loaded cars?
A. Yes, sir.

Q. Was yours in the same way, or were you giving an estimate independent of that, as of the whole train?

A. In giving my estimate, I was giving an estimate of the tonnage on the train as compared with the entire train.

I would like to say that in making the estimate of 50 to 60 per cent, it must be based on the general average.

Q. But in making the range of 50 to 60, you took into consideration and allowed for the empty cars, which Mr. Roth did not?

4840 A. Yes, sir, and allowed for any empty equipment. I would like to say that any unusual movement of empty equipment would change that average, and so it is just an estimate.

Q. Something was asked you yesterday by Gen. Hadley, about the railroads and the railroad commission in Wisconsin having made some agreement about how division should be made as to cost by the railroads: what do you know about any such thing as that?

A. I have heard that an agreement has been reached between the railroads running through Wisconsin, or running in Wisconsin, that their reports to the railroad Board would hereafter separate their tonnage between state and interstate, as was done in our statistics for the Missouri Maximum Rate case. And, from that, an attempt will be made to figure the cost per ton per mile in each class of business.

Q. That is to say, an amicable arrangement was made between the railroads and the state commission, that in making reports there should be a separation, showing on the face the amount of tons, state and interstate, and the amount of ton miles, state and interstate; but that never went further than that, did it?

A. No, sir, not that I know of, and this is a mere estimate.

Q. And that is a matter of hearsay?

A. As I said yesterday, that was something I had heard. The Missouri Pacific railway is not estimated in the state of Wisconsin, and I know nothing positive on that point.

4841 Q. It is all hearsay on your part?

A. Yes sir.

Q. And does not go any further than what I have said, that they agreed that the reports should be made in that way?

A. That is all I know of as to the agreement.

Q. Thereby giving material from which an estimate could be made, if they desired, whether from revenue tons or ton miles?

A. Yes sir.

Q. Something was said, and a question was asked, about the effect of separating, or estimating upon a revenue basis, the expense of doing business; and Gen. Hadley cut you off, or did not give you an opportunity to explain how a reduction simply of so much in the state freight would not change the entire percentage. I wish you would make your explanation about that? Of course, if you would estimate the cost, or arrive at the cost of doing the state business, upon a revenue basis, if the total revenue was $5,000,000, and $1,000,000 of it came from state freight, 20 per cent of it would be chargeable to the state expenses, and 80 per cent to the interstate:

and as you would change those percentages, you would likewise change the amount of cost?

A. Gen. Hadley, in citing his examples, first cited the fact that the total earnings might be $5,000,000, and of these $5,000,000, $1,000,000 might be earnings on state freight, while $4,000,000 would be earnings on interstate freight. He then suggested that the legislature might reduce the rates to such an extent that the earnings on the state freight would be but $500,000, on the same
4842 amount of business, and with the same proportion of earnings on interstate freight—that is, $4,000,000 of interstate earnings.

Q. You said that could not be a possibility, and that is what I want you to explain.

A. I said I did not think that would be possible. In the first place, I did not believe any legislature would make such radical changes as would affect the general or state earnings of any railroad fifty per cent. On the Act of 1905, if I understand it right, it would make a reduction in our state earnings of between 4 and 5 per cent.

Q. Of the total state earnings?

A. Yes sir, of the total state earnings. Now, that in itself was considered a serious matter by the railroads, a reduction of even four per cent in its state earnings, and for this reason: that all, or practically all, of the interstate rates, as I remember, are based upon state rates; and any reduction, even though it be but five or ten per cent, in any commodity in the state business would necessarily reduce the interstate rate on that commodity, on everything the railroad would haul.

Q. Inasmuch as the interstate business is much larger than the state, a reduction necessarily would affect a much larger volume of business that was interstate, than state?

A. Yes sir. Now, if it were possible for a State legislature, or a governing body, to reduce the rates in Missouri to such an extent that they would decrease the earnings 50 per cent, it would make a still larger decrease in the earnings on interstate business.
4843 That is, as I understand, the building up of these interstate rates. Any change in your state rates, changing your state revenue, would make a corresponding change in your interstate revenue, but would not reduce the operating expenses of the railroad to such an extent as Gen. Hadley seems to think.

Q. But, of course, if you divide on a revenue basis, no matter in what way, whenever you can get the proportion of revenue that comes to the state business of the whole, you can get a fixed problem, so it is mere arithmetic to work it out?

A. Yes sir.

The MASTER: As I understand you, the impossibility of the example as given you by Gen. Hadley, is this: that if you reduce the state revenue fifty per cent by act of legislature, it could not possibly leave the revenue derived from the interstate business at the same original $4,000,000, in the example given you?

A. That is the idea.

Q. But it would be correspondingly reduced?

A. As I understand it, you cannot reduce your revenue on state business, by reducing your rates on any commodity, without reducing your revenue on interstate business, to some extent.

Q. And therein lies the impossibility of working the example given you?

A. Yes sir.

Mr. HAGERMAN:

Q. That is what you meant when you said the example put is an absolute impossibility, so far as practical results are concerned?

A. Yes sir.

4844 Mr. T. A. HAMILTON, recalled, testified as follows:

Direct examination.

By Mr. LADD:

Q. Mr. Hamilton, were you here last Tuesday or Wednesday, when Exhibit 11-*a* was introduced in evidence?

A. Yes sir.

Q. Have you Exhibit 11-*a* before you?

A. Yes sir.

Q. Did you return to St. Louis after the adjournment last week?

A. Yes sir.

Q. Did you make some investigation into the facts shown by Exhibit 11-*a*?

A. Yes sir.

Q. When did you get back to St. Louis?

A. Last Thursday morning.

Q. When did you go to work on this?

A. About ten or eleven o'clock on Friday, the following day.

Mr. HAGERMAN: We object to any further preparation of the statement, as incompetent, and not proper, as they have already presented their theory about the Kansas City terminals.

The MASTER: He has not offered any yet, Mr. Hagerman.

Mr. LADD:

Q. How much time did you spend in investigating the statements contained in Exhibit 11-*a*, as to the freight handled at the Kansas City terminals?

4845 A. I worked until about eleven o'clock on Friday night, and until shortly after ten o'clock on Saturday night, beginning about half past eight in the morning, or a little after eight in the morning; and on Sunday from nine A. M. to four P. M.

Q. You had access to such books and papers as you asked for at the Missouri Pacific offices?

A. Yes sir.

Q. And you got here on Monday morning?

A. Yes sir.

Q. You heard Mr. Roth's testimony this morning?

A. Yes sir.

Q. That in the tonnage mentioned in paragraph 1 of Exhibit 11-*a*,

there was included 35,686 tons, or thereabouts, which was re-billed freight: did you investigate that?

A. Yes sir. I got that figure from the report of freight interchanged with connecting lines at Kansas City, furnished by the Missouri Pacific agent here to the General Auditor of the Company.

Mr. HAGERMAN:

Q. Is that percentage right, Mr. Hamilton, 13 per cent?

A. I have not worked that out. It is about right.

Mr. LADD:

Q. Did you meet Mr. Roth when you were down there during those two or three days, in St. Louis?

A. Yes sir.

Q. Did you talk with him about matters?

A. Yes sir.

Q. What did you say you ascertained that from?

4846 A. From the report of tonnage interchanged with connecting lines at Kansas City by the Missouri Pacific Railway, furnished by their agent here in Kansas City.

Q. I have called that "re-billed freight": Is that the proper expression?

A. Yes sir. It is freight re-billed here by the Missouri Pacific.

Q. Explain what that is, that re-billed freight: give some illustration.

A. An illustration would be, for instance, a shipment from St. Louis to some point in Kansas; the destination being located on a line with which the Missouri Pacific had no arrangement for through billing through Kansas City; there might be through rates, of course, but no arrangement for making a through way-bill from the point of origin to destination. Such freight would be billed by the Missouri Pacific from St. Louis to Kansas City, at their proper proportion of the through rate, and re-billed from Kansas City by the connecting line, taking it to or toward its destination.

Now, the only difference between that re-billing in transit, and making a through way-bill from St. Louis to final destination, is the fact that there is no arrangement for through billing between the Auditors of the two lines, and settlement of the Missouri Pacific freight charge is made at this junction here, instead of through the Auditors.

Mr. HAGERMAN: I object to the statement of the witness that there is no difference, because the law settles what the difference is, and

4847 without any through traffic arrangement, so far as the Missouri Pacific is concerned, the shipment begins and ends with its own rails. The Interstate Commerce Commission makes the law as to these shipments. The witness cannot say what the difference is; the law fixes it.

The MASTER: The witness might have an opinion, without respect to what the law provided; but so far as that is concerned, it is harmless.

A. May I add something to my answer, Mr. Ladd?

Mr. LADD: Paragraph 1 of Exhibit 11*a* conveyed to my mind, if I am the only one connected with this case who received that impression, that that was freight which originally started from Kansas City, shipped by some one in Kansas City, or shipped to some one in Kansas City: I took that to mean Kansas City, Kansas, or Kansas City, Mo., business.

The MASTER: You did not understand it included such freight as was actually billed to Kansas City, but intended to go beyond Kansas City, and which needed re-billing?

Mr. LADD: I did not. I thought it was freight shipped from this place by some shipper, or shipped to this place by some consignee.

Mr. HAGERMAN: It is exactly the same. It doesn't make any difference whether the man received it here, offered it for sale, and then re-shipped it. It was, within the meaning of the law, just the same as business originating or terminating at Kansas City, so far as the Missouri Pacific was concerned.

The MASTER: It certainly fell under the broad language of item 1 of this exhibit.

4848 Mr. HAGERMAN: Those tons you gave were the same as given by Mr. Roth?

A. Yes sir.

Mr. LADD:

Q. You were going to say something else?

A. I had not quite completed my answer.

The fact that freight was re-billed here would not, in my opinion, make it local business, for this reason:——

Mr. HAGERMAN: I object to his opinion.

The MASTER: Oh, yes.

A. To put it another way: there is a great deal of freight shown in this statement, or included in these figures, as passing through Kansas City, which was through billed to connecting lines, where there were through billing arrangements in effect. If at any time the Auditor of the Missouri Pacific, or the connecting line, saw fit to abrogate that through billing arrangement, then that stuff would become Kansas City proper business, even though going to Denver, Omaha, or anywhere else.

Mr. HAGERMAN: The law governs those traffic arrangements, and no Auditor can change them.

Mr. LADD:

Q. Look at the last item of Exhibit 11-*a*, reading in this way: "Total number of tons handled at Kansas City terminals, 409,500 tons": did you find that to be correct?

A. I found on examining the records from which I understand Mr. Roth compiled Exhibit 11-*a*, that that figure should have been 437,969 tons.

Q. Can you tell how the difference occurred?

A. That is rather a hard question to answer, for this rea-
4849 son: On going through the statistical sheets from which this information was drawn, I noticed where Mr. Roth had apparently interlined the items in long columns, which he apparently desired to draw off. I found a great many items sandwiched in between others, scattered here and there, which appeared not to have been taken off. Of course, I don't know that positively, but I do know that I got every item that should have been taken off, and included it in this total.

Q. How is your 437,969 made up? Can you give the different items?

A. In detail?

Q. Yes.

A. I found on business on which the Missouri Pacific's haul was entirely on the lines north and west of Kansas City——

Mr. HAGERMAN:

Q. By west, what do you mean?

A. The Central Branch, and the Atchison, Wyandotte and Omaha branches.

Except, in the instances of some business hauled in the terminals, as for instance, a shipment from Leeds, Mo., and Sheffield, going out in that direction, those points being treated as part of the Kansas City terminals, originating or terminating at Kansas City proper, 48,651 tons.

Mr. LADD:

Q. I want to know how this 437,969 you mention is made up?

A. This is the detail of it:

There was interchanged with connections at Kansas City coming from or going to that same territory, 3,394 tons. That is re-billed freight.

4850 Mr. HAGERMAN:

Q. Is that part of the 48,000?

A. No sir.

Mr. LADD: Proceed.

A. There was received from connections, or delivered to connections at Kansas City, on through billing, coming from or going to, the northwestern lines mentioned, 7,157 tons.

Q. Well?

A. Making a total business on which the Missouri Pacfic's haul was entirely on the lines north and west of Kansas City, 59,202 tons.

Q. Proceed.

A. I found that business on which the Missouri Pacific's haul was entirely in Missouri, except the haul in the terminals, as, for instance, Kansas City, Mo., to Kansas City, Kansas,—that business originating at or destined to Kansas City proper was 57,787 tons. From the same territory, or to the same territory, there arrived at or was forwarded from Kansas City, re-billed freight of 9,178 tons.

And there passed through Kansas City, through billed to or from

connections, and moving to or from points on which the Missouri Pacific's haul was entirely in Missouri, 9,240 tons.

There also passed through the Kansas City terminals, moving between stations on the Missouri Pacific, in Missouri, through billed by the Missouri Pacific, 1111 tons.

Making a total business on which the Missouri Pacific's haul was entirely on Missouri lines, of 77,316 tons.

4851 I found on business originating at and passing through Kansas City, on which the Missouri Pacific's haul in Missouri was entirely on the 27 miles between Kansas City and the Missouri-Kansas state line, at Martin City,—I believe that is known as the Missouri-Kansas Southwestern Division,—that there originated at Kansas City, or was destined to Kansas City, going out to Kansas, or coming in from Kansas, 83,771 tons.

There moved over the same line, to and from Kansas City, and to and from the same territory, in Kansas and the West, 22,575 tons, which was re-billed at Kansas City, having been interchanged with connections.

There was received from or delivered to connections at Kansas City, originating in or destined to some territory west of the 27 miles line, 12,130 tons. That moved on through billing through Kansas City.

There came down from the northwestern lines, or was forwarded to the northwestern lines of the Missouri Pacific——

Mr. HAGERMAN: What do you mean by that?

A. The entire line north and northwest of Kansas City; the Central Branch, etc.

Q. I thought you gave those?

A. That is the same proposition referred to previously, all Missouri Pacific lines north and northwest of Kansas City.

Q. That I have as 51,102.

A. That was originating or terminating in Kansas City proper. This is going out into Kansas, or coming in from Kansas. That figure is 46,346 tons.

4852 That is the tonnage which passed over the 27 miles between Kansas City and the Missouri-Kansas state line, and either originated on the Missouri Pacific north and west of Kansas City and destined to points in Kansas, or vice versa.

The total business using the Kansas City terminals, on which the Missouri Pacific's Missouri lines got a haul of only 27 miles was 164,822 tons. This was all business which was hauled by the Missouri Pacific partially in other states outside of Missouri.

There originated on the Missouri Pacific in Missouri, or there was destined to Missouri Pacific points in Missouri, freight originating or being destined to Kansas or beyond, and which traveled over the 27 miles from the Kansas state line, 41,193 tons.

Mr. HAGERMAN: You have several times your 437,000 made up now.

A. I have given the detail of each group, and then the total for each group, and those totals will build up the 437,000.

Q. You and Mr. Roth are making up figures from the same document, and it seems to me that without your going out to get

figures to show that Mr. Roth was wrong, you two men being there together could have talked about it, and got where the differences were.

A. I believe my figures were derived from the same records that his figures were derived from, and I simply went to work——

Q. If one left out something, isn't it the better way to
4853 point it out and see who is right about it?

Mr. LADD: Let us proceed.

Mr. HAGERMAN: It seems to me this is absolutely unintelligible.

The MASTER: He is building up his alleged total, which I understand to be about 28,000 tons more than Mr. Roth shows.

Mr. LADD:

Q. You gave us last, 41,193 tons: is there anything more to go in there?

A. Yes sir. There was handled from various points in Missouri, through the Kansas City terminals, to points in the northwest, that is to points on the northwestern lines,—I mean by that the Missouri Pacific north and west of Kansas City—or in the reverse direction between the same two territories, 56,777 tons.

That makes a total tonnage the Missouri Pacific hauled on its lines east and west, or north of Kansas City, 97,970 tons.

I found that there moved to points outside Missouri, via the line through Pleasant Hill and branch lines running from that line into Kansas, to and from Kansas City proper, 24,161 tons.

There also moved to and from Kansas City, freight received from or delivered to connections, and re-billed at Kansas City, 539 tons.

And to or from Kansas City, on through billing, to or from points beyond, 2,542 tons.

There came down, or went up, to the Company's northwestern
lines, and moved out from or to Kansas, via Pleasant Hill,
4854 9,047 tons.

Mr. HAGERMAN: I object to all this as incompetent, and not proper evidence to meet our example. He is spending his entire time dividing and sub-dividing business that goes out into another state. The most that he is entitled to show, at this state of the proceedings, is to take Exhibit 11*a* and say, if it is not right, what is wrong. The point I make is, that at this time what they are confined to is to meet Exhibit 11*a*, and point out that such and such a figure is wrong, and wherein it is wrong, and not build up some new statement as to the Kansas City terminals.

The MASTER: As I understand the matter, it is this, and it seems to me entirely competent: Mr. Roth, in his Exhibit 11*a*, gives the total amount of freight that was handled in or out of the Kansas City terminals, as a certain number of tons. Now, Mr. Hamilton has gone to the original sources from which Mr. Roth obtained his information, and makes the item about 28,000 tons more than Mr. Roth made it. He is now giving the detail of the several items which foot up 437,000, as against the 409,000 given by Mr. Roth.

It seems to me that is perfectly proper. He is giving it in more

detail than I can see any necessity for; but that is only a question of time, if Counsel want it that way.

I over-rule the objection.

Mr. LADD: I did that so it might appear plainly to the other side how that item was made up.

A. (continued). The last group I have referred to, beginning with the 24,161 tons, makes a total of 36,289 tons which used the Kansas City terminals, and on all of which the Missouri
4855 Pacific got revenue outside of Missouri, although in this case the Missouri Pacific's Missouri haul was slightly longer than on the business which went over the 27 miles of road in Missouri.

I found there moved between points in the Kansas City terminals, between Kansas City, Kansas, and Kansas City, Missouri, 842 tons; and between Kansas City, Missouri, and other Missouri points in the terminals, 1528 tons.

This will build up a total of 437,969 tons.

Q. I want to see that we have the figures right that make up that total: that is made up of what?

A. 59,202 tons;
77,316 "
164,822 "

Q. Wait a moment: your 164,822 tons is made up of what?

A. 22,575 tons;
83,771 "
12,130 "
46,346 "

—. What is the next one?

A. 97,970 tons.

Q. Of what is that made up?

A. That is made up of 41,193 tons;
56,777 "

Q. What is the next one?

A. 36,289 tons.

4856 Q. Your 36,289 is made up of what?

A. 24,161 tons;
539 "
2,542 "
9,047 "

Q. What is the next one?

A. 842 tons.

Q. What is the next one?

A. 1,528 tons.

Q. And those added together make what?

A. 437,969 tons.

At this point, recess was taken until two o'clock P. M.

4857 After recess on April 2, 1907, the following proceedings were had:

Redirect examination of T. A. HAMILTON continued as follows:

By Mr. S. B. LADD:

Q. Take Exhibit 11-*a* again and look at item 7, which says, "tons 50,476"?

A. Yes sir.

Q. Is that correct according to your investigation?

A. That figure should be 59,202 tons.

Q. Take item 2 which says, "tons 50476:" Is that correct according to your investigation?

A. That should be 52,045.

Q. Take item 4, shown on this Exhibit to be, "157,516 tons:" Is that right?

A. That should be 185,543 tons.

Q. Can you tell, if necessary, what makes up those figures 185,543?

A. Yes sir.

Q. Look on item 5, shown on an estimate, I think Mr. Roth says, to be 39,379 tons: Is that correct?

A. That figure should be 119,327 tons.

Q. Are your figures 119,327 an estimate?

A. No sir, they are an accurate figure taken from the records in the Missouri Pacific Railway Company's office.

Q. Have you the details to show how that is worked out?

A. Yes sir.

4858 Q. Have you those right before you?

A. Yes sir.

Q. Take item 6, "359,024 tons:" Is that correct?

A. I had a memorandum, I thought, which I appear to have misplaced, but if you will wait a moment, I can figure it out for you. (After calculating) We have that figure subdivided into several other figures.

Q. Put them together so I can see. I wan- to know whether that 359,024 is correct, and if it is not correct, what is correct?

Mr. HAGERMAN: If his figures are correct, it would be the difference between his total and the 59,202.

A. That is the idea. That figure should be 378,767 tons.

Mr. LADD:

Q. Now, I wish you would state on how many tons passing through the terminals, Missouri gets no revenue at all?

Mr. HAGERMAN: He has given that as 59,202: Isn't that right?

A. Yes sir.

Mr. LADD:

Q. What percentage is that of the total tonnage handled in the terminals?

A. Only thirteen and one half per cent.

Q. State on how many tons, Missouri gets revenue on account of that part of the mileage, being twenty seven miles from Kansas City to the State Line at Martin City, out of the interstate freight?

A. 164,822 tons.

Q. They get that on a mileage basis of twenty-seven miles?

A. Yes sir. That is, on interstate business, or business
4859 passing out into other states or coming from other states and passing over those twenty-seven miles, the revenue would be pro-rated among various portions of the system each side the State line.

Q. How would the business from Kansas City to Wichita be? Would that be included in that?

A. Yes sir.

Q. Kansas City to Pueblo: Does that go over the twenty-seven miles in Missouri, and no more?

A. Yes sir, that is correct.

Q. Have you the percentage which the 164,822 tons bears to the total number of tons, 437,969?

A. 37.83 per cent.

Q. On how many tons did Missouri get all the revenue?

A. 77,316 tons.

Q. What percentage is that of the total tonnage?

A. 17.64 per cent, almost 18 per cent.

Q. Now, I will ask you to look at Exhibit 11-*a*. You have already stated that the figures 39,379 should be 119,327 tons: I will ask you to state in detail how that 119,327 tons is made up?

A. It consists of business interchanged at Kansas City, carried on through billing, which is not handled by the Missouri Pacific line south or east of Kansas City, amounting to 7,157 tons.

Business between points west of the Missouri line, moving over the twenty-seven miles of track between Martin City and Kansas City, which we have mentioned, and destined to the north-
4860 western lines, 46,346 tons.

Business to or from points in Missouri, wholly within the State, or travelling via Missouri Lines as far as the Missouri Pacific Railway is concerned, 56,777 tons.

Business to or from points west of the Missouri,-Kansas line, and travelling into Kansas City or through Kansas City via Pleasant Hill, 9,047 tons.

That makes the total of 119,327 tons in which the line- north and west of Kansas City are interested.

Q. Have you your working sheets in St. Louis, and the details of the figures by which you arrived at this, which you are willing to show to Mr. Johnson or Mr. Roth?

A. Yes sir.

Recross-examination.

By Mr. FRANK HAGERMAN:

Q. You had before you all the books and papers that Mr. Roth had, in order to compile your statement, didn't you?

A. I understood so.
Q. Every figure
A. I understood so.
Q. And you have made up and brought your figures here, without submitting them to Mr. Roth?
A. We were delayed somewhat——
Q. You did not do so?
A. We have not had an opportunity.
Q. You have not done it?
A. We have not had an opportunity to do so.
4861 Q. Did you do it?
A. No sir, the opportunity did not offer itself to submit them to Mr. Roth.
Q. If you had had Mr. Roth's figures before you, and you now find a difference in tonnage of 28,000 odd tons, have you done us the fairness to point out where you get the additional tons which Mr. Roth did not have?
A. No sir, that would be impossible, I think, for this reason: Mr. Roth's figures were drawn from large, statistical sheets, columns possibly as long as the Master's table, some of them. He had picked out, as I picked out, undoubtedly, certain items in those columns; and it is impossible for me to tell what Mr. Roth was thinking of when he went over the figures, and what items he took and what he left.
Q. The Kansas City Northwestern Railway, Wood street: What did you allow for that?
A. I could not tell you in detail what separate figures I allowed for that.
Q. You allowed all that?
A. Yes sir.
Q. Can not you give us any estimate, about how much that was?
A. No sir, that is mixed in their statistical sheets with other stations, and we did not have an opportunity to keep them separate by separate divisions.
Q. You knew that none of the Kansas City Northwestern expenses went into this terminal expense?
A. I did not know that.
4862 Q. I will tell you now, then, that your own experts have testified to it. You understood it so?
A. I did not know that it had any bearing on the case.
Q. You knew also that the tonnage of the Northwestern, Wood street station, did not go into these figures at all: All the expense of which went to Kansas?
A. No sir, I did not.
Q. You understood it, without knowing it: Did you understand it without knowing it?
A. No sir.
Q. Can you give us any estimate or any idea of how much of the tonnage in your 407 odd thousand is allowed for Kansas City Northwestern Wood street Station?

A. Let me understand you: You mean terminating and originating there?

Q. I don't care what it is. It is what is handled there.

A. You say allowed for that station, and I do not quite understand the question.

Q. If you have anything of the Wyandotte Northwestern Railway, handled at the Kansas City terminals, what is it and what is the amount of it and where was it handled: What I want to get at, if there is any possibility of doing it, is to find out how it is a possibility that you can from Mr. Roth's figures find a difference of 28,000 tons and not be able to point out where it is. You both examined the same books.

A. Yes sir. Perhaps if I explained the nature of the records from which I took the figures, it will become clear to you:

4863 The Missouri Pacific Railway Company draws up statistical sheets——

Q. I don't care anything about that. If you follow me and you retained your materials, you can follow me nearly enough not to waste any more time on the subject.

A. If I may explain, I think this is the explanation:

The source from which these figures were taken and from which Mr. Roth tells me he took his, were statistical sheets, showing the tonnage forwarded from station to station on the Missouri Pacific Railway Company, the station names being designated by numbers.

For instance, if you had a shipment from a point on the Kansas City Northwestern, I believe their number is 6000, series, to St. Louis. The tonnage movement would show for 6,016 to number one for the month.

They might give next a shipment that moved from the Iron Mountain Railway over the twenty-seven miles of line, to St. Louis. And I cannot tell what Mr. Roth took and what he omitted.

Q. That has nothing to do with the question I asked you. Have you any way of showing us what there was from the Kansas City Wood street Station, no part of the expense of which belongs to Missouri, which you have included in your tonnage here? And is it 5000, 10,000 or is it anything?

A. Yes sir.

Q. How much is it?

A. Fifth street, Kansas City—I presume that is the one you refer to?

Q. That is the station.

4864 A. There moved into Missouri (it is given here in pounds, I will reduce it from pounds to tons) 2,689 tons.

Q. Into Missouri?

A. Yes sir. That is, to and from Missouri.

Q. Now, then, the other way, what was it?

A. To and from Kansas City, fifth street, to Kansas points, via Pleasant Hill——

Q. Oh, no, that Kansas City Wyandotte Northwestern does not go via Pleasant Hill.

A. It does, to Kansas points.

Q. I thought I was asking you for stuff going through Kansas up on the Northwestern Railway?

A. I did not take any of that.

Q. You did not take any of that?

A. No sir.

Q. Have you any idea what it is?

A. No sir.

Q. You took out everything that you think used the Kansas City terminals, and what I want to take out is that portion using it east of the Wood street terminals.

A. Which went north and west?

Q. Yes.

A. That is not included in my figures.

Q. Nothing of that kind is included in your figures at all?

A. No sir.

Q. How much of the Company material is included in your figures?

A. All of the items I drew from the Missouri Pacific Rail-
4865 way Company's statistical sheets showed that the Company had earned revenue.

Q. That is only dodging the question. How much of it was Company material. We will meet the question of whether the Company got revenue from it.

A. Missouri Pacific Railway Company material?

Q. Missouri Pacific Railway System material. Now, you are not going to get away from answering the question by that kind of an answer.

Mr. LADD: He is simply asking what is meant.

Mr. HAGERMAN:

Q. I want to know to start with, the road or the system.

A. The sheets furnished me to draw up the statement from, were supposed to cover revenue freight. I understand that the Missouri Pacific Railway charges no revenue on its own Company material, but bills it "dead-head."

Q. How much Company material, leaving out your argument, as to whether the Company got revenue or did not get revenue from it, how much Company material is included in your figures?

A. The records from which I drew these show that the Company got revenue, and my understanding is that they bill their Company material "dead-head" and assess no revenue.

You understand the figures from which I took these figures are drawn from the way-bills, and no Company material should be included in it.

Q. As I understood it, you had included the Company material, and I want to know whether that is true or not?

A. We did include 6,000 tons billed from Myrick, Missouri, to Kansas, coal.

4866 Q. That is 6,0000 tons of coal: How much more was there?

A. That is the only item of that character.

Q. What other Company material did you include?

A. I have told you that the records showed that the Company obtained revenue——

Q. Regardless of taking the revenue, of Company material, how much have you included besides these 6,000 tons?

A. How much?

Q. How much Company material have you included in the tonnage here, on the Kansas City terminals?

A. According to the records from which these figures were taken, none at all.

Q. Regardless of the record: In any other way?

A. I cannot get it into my statement, except to draw it from the record.

Q. Do you know? I don't care how you found it out, whether Mr. Taliaferro told you or some of your assistants: Do you know or have you any idea or understanding as to how much additional Company material, besides that 6,000 tons, you have included?

A. I understand there is none included.

Q. None at all?

A. No sir.

Q. By that do you confine your answer to the Missouri Pacific or do you include the roads of the system?

A. What I mean to say is: The records from which we got these figures, show that every pound of tonnage I have taken into consideration, had revenue assessed upon it. Now my understanding is that the Company bills its own property for use on the
4867 Missouri Pacific proper, dead-head, and does not assess any revenue; consequently, it would not appear on these sheets from which these figures are drawn.

Q. If you are trying to tell me that you understood or have no reason on earth to believe that your 437,000 tons did not include any Company material, except the 6,000 tons of coal, I will drop the subject: But if you are trying to evade it, I will keep after you?

A. No sir, I am simply trying to strengthen that answer.

Q. It needs no strengthening if that is the fact, because there is some way of ascertaining the difference between you and Mr. Roth of 27,000 tons, in which 6,000 tons only has been accounted for up to the present time.

Now, take Exhibit 11*a* and commence with item 1: That includes freight of all character and kind, consigned to or from Kansas City, Kansas, and Kansas City, Missouri?

A. Yes sir.

Q. But do you say about those figures, no matter where they come from now, whether north and west, south and west, or east, if the consignment is to or from Kansas City, Missouri or Kansas City, Kansas?

A. I don't quite follow your question. You asked me what I say about them?

Q. Are the figures correct?

A. No sir.

Q. What is the trouble with them: What are your differences: What are your figures?

4868 A. My total is 252,426 tons.

Q. That is how many more tons than we have got? Have

you that separated as to Kansas City, Missouri and Kansas City, Kansas?

A. No sir. These figures are lumped. (After calculating.) 442 tons.

Q. The total difference is 442 tons?

The MASTER:

Q. What is the total amount by your showing?

Mr. HAGERMAN:

Q. In our item *i*, that is fifty-one per cent of the Kansas City Terminals, and that percentage with that small amount of tonnage would be imperceptible, wouldn't it?

A. Out of that 252,426 tons, 35,686 tons were interchanged with connections and did not stop at Kansas City or originate there in the first instance.

Q. If you will let me try to finish my questions an- instead of jumping ahead to argue, we will get along better.

The 35,000 of which you speak is the same matter of which Mr. Roth spoke, where your people are claiming that is not consigned to or from Kansas City, because it is re-billed stuff?

A. Yes sir.

Q. There is no difference between you and Mr. Roth as to the amount included therein on that account?

A. No difference as to the figures. My understanding of "consigned" to or from, is that freight which stops or originates.

Q. You will have to go to the books or the dictionary and
4869 see what the meaning of the word "consigned" is. The Courts will decide that difference between you. You have volunteered your argument upon it several times. What I am trying to get at is the difference. The only difference in the total number of tons between the way you figure it and the way we show it in item 1, of Exhibit 11*a*, is 442 tons?

A. Between the total number handled at the Kansas City Terminals. But as I said before, 35,686 tons of that went to and from connecting lines.

Q. So Mr. Roth said. There is no difference between us on that account.

Mr. LADD: He did not state it in Exhibit 11*a*.

Mr. HAGERMAN: It is simply a question of law as to whether that is freight that is properly classified or not.

Mr. LADD: Also a question of fact, whether it was billed and re-billed.

Mr. HAGERMAN:

Q. The 442 tons make no perceptible difference in that percentage?

A. Not as to the percentage.

Q. Can you give us any idea as to where that 442 tons came from? What it consists of?

A. It would be impossible, the way this statement was gotten up, to say just which 442 tons I got that Mr. Roth did not get.

Q. That might be a natural mistake between you, in checking up the different shipments, you think?

A. I think so.

4870 Q. And that is the only explanation you can make of that difference?

A. Yes sir.

Q. Now, take item 2: in 11-*a* that is 50,476 tons: what do you say it ought to be?

A. 52,045 tons.

Q. In percentage, what would that be?

A. (After calculating.) 52,045 tons is 11.8 per cent of 437,969 tons.

Q. 11.8 per cent of your total?

A. Yes sir.

Q. What per cent would that be of the total in Exhibit 11-*a*?

A. A little over twelve per cent.

Q. There is no substantial difference, is there?

A. No sir.

Q. That makes, in tons, how much difference on that account, 1569 tons, doesn't it?

A. Yes sir.

Q. Have you any way by which to indicate wherein that difference arises?

A. Not unless Mr. Roth missed something that I got.

Q. Have — your matter in any itemized form, so we can check it up?

A. I have the details here that I drew direct from the sheets. It could be checked by the sheets themselves.

Q. I want to try to locate, if I can, where your differences are, and see what is the matter with it.

4871 A. That could not be done unless you have the records here from which these figures were drawn.

Q. Take item 3: there were consigned to and from points other than the Omaha Division: what is the difference there? According to Exhibit 11-*a*, the total is 201,508 tons, isn't it, or 49.21 per cent?

A. (After calculating.) I make that 198.071 tons, including 32,292 interchanged with connecting lines.

Q. That is what you call re-billed?

A. Interchanged re-billed, yes.

Q. That makes a difference of 3,497 tons, doesn't it?

A. Yes sir.

Q. Can you account for that difference in any way?

A. No sir.

Q. That is to say, it is 3,497 tons more in Exhibit 11-*a* than it is according to your figures, and you cannot state why it is?

A. No sir.

Q. Now, let us go to item4: that seems to be the one in which there is the big difference between you: That is freight that passes through the Kansas City terminals, not consigned from or to either Kansas City, Mo., or Kansas City, Kansas?

A. Yes sir.

Q. That is 157,516 tons?

A. Yes sir.

Q. What did you make that?

A. (After calculating.) 185,543 tons.

4872 Q. And the difference is what?
A. 28,027 tons.
Q. That is practically the total difference between your two statements on tonnage: how near does that come to it?
A. That is pretty near it.
Q. We practically locate your differences in this item?
A. I cannot say that is the difference.
Q. How near does it come to representing the total difference?
A. It makes practically the same figure.
Q. Let us see how you make up your 185,543: give me the items of it.
A. Do you wish me to specify the items in detail?
Q. Yes; so we can see what it is.
A. Business moving between the northwestern lines of the Missouri Pacific system and Kansas City, and delivered to or received from connections at Kansas City, on through billing, 7,157 tons.
Q. Let me understand what you mean by that.
A. That is a shipment billed, for instance, from Omaha to Chicago, via Kansas City and the C. & A.
Q. You mean there the stuff that comes from the northwestern lines destined to the East?
A. Not necessarily to the East.
Q. Or South, or West?
A. In any way coming from or going to the northwestern lines.
Q. You mean by that the Omaha Division?
4873 A. Omaha, Kansas City Northwestern, or the Central Branch.
Q. Have you the Kansas City Northwestern separate?
A. No sir, it is included in these figures.
Q. What is the next item?
A. Coming from Missouri points, on the Missouri Pacific, and going to connecting lines at Kansas City, on through billing, or vice versa.
Q. That would be the counterpart of what you do from the northern lines, except anything coming in to Kansas City, from any other direction?
A. For instance, Sedalia to a point in Kansas, billed through Kansas City.
Q. How much is that?
A. 9,240 tons.
Q. What is the next one?
A. Moving between points in Missouri, both ways, on the Missouri Pacific rails, passing through the Kansas City terminals, 1111 tons.
Q. That is stuff that moved from points in Missouri to points in Missouri?
A. Yes sir.
Q. And passing through the terminals?
A. Yes sir. For instance, a shipment from Martin City to Sedalia, or vice versa.
Q. Go ahead.
A. The next is business moving from the northwestern lines of the Missouri Pacific out into Kansas and beyond, coming

4874 down to Kansas City and going over the K. C. S. W. Division 27 miles and out into Kansas.

Q. That was not included in your first list, that which came down from the northwest and stopped in Kansas City?

A. No sir.

Q. Your 7,157 tons?

A. No sir, the 7,157 tons goes to connecting lines at Kansas City.

Q. And this is from the northwestern lines to the Missouri Pacific?

A. Yes sir, or connections beyond, in Kansas, Colorado and beyond. For instance, Omaha to Pueblo, Omaha to Wichita, or vice versa.

Q. How much is that?

A. 46,346 tons.

Q. Suppose a shipment from the Southwest to St. Louis—which list does it go to?

A. I haven't come to that yet.

Q. This is for the points south-west and west?

A. Yes sir, moving over the 27 mile line between Kansas City and the state line.

Q. What else have you?

A. Then I have shipments from Kansas points or beyond coming in over the 27 miles of line, and delivered to connections at Kansas City on through billing, or the reverse of that proposition, 12,130 tons.

Q. What is next?

A. The next item is shipments from the Northwestern lines to points in Kansas moving via Pleasant Hill, and lines diverg-

4875 ing from the Lexington Southern Division into Kansas.

Q. How much is that?

A. 9,047 tons.

Q. Does that make up your total?

A. No sir. I have business coming from points in Kansas via the Pleasant Hill line, and delivered to connections at Kansas City, on through billing, or the reverse of that.

Q. That is just the reverse of the 9,047?

A. No sir, the 9,047 is business originating on the Missouri Pacific rails north of Kansas City; this is business turned over to connections, or received from connections there.

Q. I don't know that I understand that. It looks to me like doubling.

A. 9,047 is, say, shipments from Omaha to Pittsburg, Kansas.

Q. And what would this be?

A. This would be, say, a shipment from Omaha to Chicago by way of the Wabash.

Q. How much is that?

A. 2,542 tons.

Q. What else have you?

A. The other is business moving between Missouri Pacific lines north and west of Kansas City, and points on the Missouri Pacific in Missouri, or to Missouri Pacific points for beyond, where the Missouri Pacific's entire haul was in Missouri, 56,777 tons.

4876 Q. Does that make up your total?

A. No sir. Business moving between Missouri Pacific sta-

tions in Missouri, and points in Kansas and beyond, that travels over the 27 miles from Kansas City to the state line, 41,193 tons. That would be, for instance, a shipment from Sedalia to Wichita. That makes up the total.

Q. Can you locate the difference in any way, wherein or what this difference is between your figures and the figures given in Exhibit 11*a*, so we can find out how that can be accounted for?

A. No sir, I don't know what Mr. Roth omitted.

Q. Or what you put in that he did not put in?

A. Except that I am satisfied that what I put in belongs in the statement.

Q. The next is item 5, where 39,379 is the tonnage passing through the terminals, not consigned to or from either Kansas City?

A. And going to or from the Omaha Division, which I have called the northwestern lines.

Q. You have 119,327 tons?

A. Yes sir.

Q. 71,057 tons of that is business which you say is interchanged at Kansas City: what business do you mean by that?

A. That is business from the northwestern lines, delivered to connections at Kansas City on through billing, or the reverse.

Q. What you mean to say now is that the total business that passed through the Kansas City's, that was neither consigned
4877 to or from there, was 185,543 tons, as given in item 4——

A. That is not given in item 4.

Q. I say, in your figures, as you say item 4 ought to be?

A. Yes sir.

Q. Does that include the re-billed stuff in your figures?

A. Interchanged business, re-billed?

Q. Yes.

A. No sir.

Q. You have not included in item 4 anything that was re-billed?

A. Pardon me, I have.

Q. How much?

A. Not the interchanged, re-billed business. I have included the through billed business, but not the interchanged re-billed.

Q. What is the difference between interchanged re-billed and any other kind of re-billed business?

A. I did not understand you to say "re-billed."

Q. Have you in the 185,543, included anything that was re-billed, that you say ought not to have been in item 1?

A. No sir.

Q. You have counted all the re-billed stuff in your figures that you give for what ought to be in item 1?

A. No sir. In giving those figures I have said that a certain proportion of it was re-billed stuff.

Q. You have included in your 252,000 the 35,000 of re-consigned stuff?

4878 A. Yes sir, for the purpose of comparison.

Q. Do you include any of that kind of stuff in your 185,000?

A. No sir.

Q. Now, let us get your 119,000, in item 5. You say that is 7,157 tons representing business interchanged at Kansas City?
A. Yes sir.
Q. That is business interchanged at Kansas City?
A. On through billing.
Q. That is to say, from some point north, to or from some point north of the Kansas City terminals, on these northern lines?
A. Yes sir. 7,157 tons.
Q. The next item you gave was 43,346 tons?
A. Yes sir.
Q. What does that include?
A. Business moving between the northwestern lines and points in Kansas or beyond, via the 27 mile line between Kansas City and the state line.
Q. By "points on the northern lines" what do you include? Suppose you were to get a shipment just across the state line; do you include that in the northern lines?
A. I include all stuff billed to or from points north of Kansas City on the Missouri Pacific.
Q. What do you call north of Kansas City? What is the first station?

A. I don't know the exact station order. Kansas City,
4879 Kansas, for instance.

Q. That is getting down to it, and we will probably find what your difference is. You include in that all the stuff that comes from or goes to Kansas City, Kansas?
A. No sir, I do not. I mis-stated the fact there. I was thinking of Kansas City, Kansas, being the first road station north of Kansas City, Mo., but we have treated that as part of the terminal proposition.
Q. Then what is your first station that it has to go to north of Kansas City, Mo., before it is included there?
A. The first station shown outside the terminals is Nearman, Kansas.
Q. How far out is that?
A. I have not the mileage here.
Q. There is nothing in this 46,346 that has not either come to or gone as far as Nearman, Kansas?
A. Or further.
Q. At least as far as that, I say?
A. Yes sir.
Q. Take your 56,777: what does that mean?
A. That is business moving between points on the Missouri Pacific rails in Missouri, and points on the Missouri Pacific rails north and west of Kansas City.
Q. By that you also mean that it must have gone to or from points as far north as Nearman, Kansas?
A. Or further, yes.
Q. You do not include in that anything in either Kansas City?

4880 A. No sir.

Q. And then what is the next, 9,047 tons?
A. That is business moving to and from the northwestern lines, or, rather, between the northwestern lines and points west of the

Missouri-Kansas line, via Pleasant Hill, and diverging lines in Kansas.

Q. That is to say, it must have come or gone by way of Pleasant Hill, and must have gone to or from as far north as Nearman station?

A. Yes sir.

Q. And the total of that makes your 119,327?

A. Yes sir.

Q. And that is what per cent of your total? Have you that? And have you the 185,000 figure in percentage?

A. I will make it; (after calculating)—119,327 is 27.2 per cent of 437,969;

The same figure is 29 and a very small fraction per cent of 409,500; virtually, 29 per cent;

185,543 is 42.3 per cent of 437,969; and 45.3 per cent of 409,500.

Q. Item 6, you say, should be 378,767, as against 359,024 given in Exhibit 11-*a:* What is that percentage? That will be the difference between 13½ and 100, or 86½, won't it?

A. Yes sir. 13½ will not be the exact figure.

Q. You gave item 7 as 13½; that is approximately correct?

A. Yes sir.

4881 Q. Let me see your details, whether there is anything on these details you are going to give us, to have Mr. Roth check up, and see whose figures are right, or where the mistake is. Let me see what you have. It seems to me if you are all examining the same books, if you will go and examine them at the same time there could not by any mistake, and report to the Court wherein the difference is.

A. Here they are (producing working sheets).

Q. You have handed me sheets 13, 14 and 15, being the data which you say Mr. Roth can check up?

A. That is not all of it.

Q. But they are all just like these?

A. On that order.

Q. I wish you would let the Master look at those, and tell him how Mr. Roth or anybody else can check it up from those.

A. You would have to have Mr. Roth's working sheets here to show how those figures are arrived at.

Q. Do you mean to tell me that you and Mr. Roth can sit down with your working sheets, and find out where the differences are?

A. I can verify my working sheets from the records from which I drew that off. I don't know what he could do with his working sheets. I think Mr. Roth could take his permanent records in his office and check them against that.

If I may explain how these figures were gotten on those sheets, perhaps it will make the situation clearer.

Mr. ROTH: It will be practical to tell where the differences are.

4882 Mr. LADD: I am perfectly willing that Mr. Roth and Mr. Hamilton shall go to St. Louis together, and take all the sheets and all the figures, and find out just where the differences are between them.

Mr. ROTH: That will be impossible. We could verify those figures, and say whether they are correct or not.

Mr. LADD: I am perfectly satisfied, from what I hear here, that probably you would not be able to verify Mr. Hamilton's figures, and he would not be able to verify your figures, but, perhaps, if you go back to the original books and figures, and each of you see where you got your figures from, and what you took, you could see what the differences were. I am willing that should be done.

Mr. HAGERMAN: That's all I want. There is nothing on these working sheets to indicate from them what the differences are.

Redirect examination.

By Mr. LADD:

Q. Is there any freight included in item 4 of Exhibit 11-*a*, tonnage passing through that was received from or delivered to the Missouri Pacific Railway at Kansas City by connections, in exactly the same way as the items aggregating 35,686 tons included in item 1? Did you understand the question?

A. Yes sir. I understand—none.

Q. Did you speak about 6,000 tons of coal?

A. Yes sir.

Q. Who was that shipped to, do you know?

4883 A. It was shown on the Company's records as being forwarded from Myrick, Mo., to Atchison, Kansas, an aggregate of 11,041,200 pounds: that is the item I spoke of as being about 6,000 tons. I asked what that covered, knowing Myrick to be a coal shipping station, and noticing that while, as a matter of fact, commodities were not usually mentioned on the records, the word "coal" was written after those figures.

Q. Myrick is in Missouri?

A. Yes sir, on the River Line main track.

I was told it was coal for the use of the Central Branch, some of it for the Land Grant Division, and some for the Central Branch west.

Q. The Central Branch is in Kansas?

A. Yes sir; running north and northwest from Atchison, formerly known as the Central Branch of the Union Pacific.

Opposit that figure was shown, as the revenue for transporting it, $4,192.62. I took the item then as revenue freight.

4884 A. P. TALIAFERRO, Recalled, testified as follows, to-wit:

Direct examination.

By Mr. LADD:

Q. Mr. Taliaferro, it was either said or suggested here yesterday that you had conceded the accuracy of the figures shown in Exhibit 5-*c*, as to interstate and state freight earnings for the different months in 1905:

Now, the total of these figures, as shown on that Exhibit, for state freight is $1,632,856.14; and for interests, $3,777,390.45: Do those figures correspond with the figures given for earnings in Exhibit 5-*a*?

A. Yes, sir.

Q. In Exhibit 5-*c*, it is sub-divided into months?

A. Yes, sir.

Mr. HAGERMAN: Exhibit 5-c is a monthly tabulation of what makes up the total.

Mr. LADD: If I recollect aright, Exhibit 5-c was introduced on your cross-examination by Mr. Hagerman, and you copied it in pencil from some books or papers in the office of the Railroad Company, and had it put in type-written form for Mr. Hagerman; is that it?

Q. Yes, sir, in that way?

A. Yes, sir.

Q. Have the state experts conceded the accuracy of these figures as to earnings? That is what I want to know.

A. We did not change them in making up our statements Exhibits 30 and 31, for instance.

4885 Mr. HAGERMAN: I submit that is a question that has been fully gone into.

Mr. LADD: Some one undertook to suggest yesterday that we conceded the accuracy of those figures.

The MASTER: Whether conceded formally or not, they have been accepted.

Mr. LADD: They have been accepted for certain purposes, and I wish to have the witness explain that.

Q. Have you or your assistants ever gone over the waybills, or the records, except as to the month of October, 1905, to verify in detail the accuracy of these returns of revenue for the different months of that year.

A. Not for any entire month; no sir.

Q. Except October?

A. Except October.

Q. You have, haven't you, in many of your Exhibits——

The MASTER:

Q. You found October to be correct?

Mr. LADD: Our Exhibit 19 shows the earnings for October.

Q. Why wasn't that done for those different months, the other months in 1905, the same as you did it for October, 1905?

A. The volume of work would have been so great that we couldn't do it; and we didn't undertake to do it.

Q. A great many, or a number of your exhibits and your computations, have been based upon the figures of earnings, both state and interstate, for that year, as given in Exhibit 5*a*; that is true, isn't it?

A. Yes, sir.

4886 Q. And is that the reason, because you were not in a position to dispute them, except as to October?

A. Yes, sir.

Q. They have been assumed to be correct for the purposes of the exhibits?

A. Yes, sir.

Q. But you have nor verified the corrections or absolute accuracy of the earnings for any of those months except October, 1905: is that true?

A. Yes, sir. That is true.

Q. And you have not undertaken to do it?

A. No, sir.

Recross-examination.

By Mr. HAGERMAN:

Q. You said on your former examination that you had gone through and made enough of an examination of the earnings to know that they were near enough correct and that you did not want to test them?

A. I don't think I testified in regard to that at all.

The MASTER: If no contest is made over them, what more do you want?

Mr. HAGERMAN: I cannot understand the purpose of this. If it is re-opening the case, I want to know it.

Mr. LADD: It is simply this; an argument is made here that because our figures, the result of our investigation of October, 1905, which was extremely painstaking, do not correspond with the figures for the whole year, as shown in Exhibit 5c, therefore, our Exhibit 19, which covers only October, 1905, cannot be correct, be-
4887 cause we have conceded that Exhibit 5c is right, as a whole.

The MASTER: All these matters are necessarily in the case. It has been understood all the time that only one month of that year was taken to be verified. The others were accepted, because, as Mr. Taliaferro says, the magnitude of the work was such as to forbid going over the whole of the year.

The defendant rests.

4888 Mr. H. ROTH, being recalled, testified as follows:

Direct examination.

By Mr. HAGERMAN:

Q. What is your recollection about the amount of Company tonnage in the Kansas City terminals which you did not include, in round numbers?

A. As near as I can recollect, it would be somewhere between 25,000 and 30,000 tons that I allowed for in making up my figures. That is what we would call transferred from commercial freight to dead-head. That is to say, where revenue is assessed over parts of the system.

Q. Your idea about it is that the total 437,000 against 409,000 is practically made up of that difference?

A. I should think so.

The MASTER:

Q. That is to say, that, whereas the Company's records might show it was revenue freight, yet it was paid out of one pocket into another pocket of the Company, and you eliminated that item: is that the idea?

A. Yes sir.

Q. And that amounted to about 28,000 tons?

A. Yes sir. We might have a shipment of ties from Poplar Bluff, Mo., to Wichita, Kansas. That would be assessed through the Kansas and Colorado boundary line, which is part of the Missouri Pacific system. It would bear revenue from Poplar Bluff to the be-

gining of that road, and would be shown in the sheets that
4889 Mr. Hamilton worked on as revenue freight, but it is merely an assessment from one portion of the road to another, and I consider it as taking money out of one pocket and putting it into another.

Q. And you excluded that?

A. I excluded anything of that kind.

The MASTER:

Q. That would practically account for it, because Mr. Hamilton included all matters shown as revenue freight, as revenue freight.

Mr. HAGERMAN:

Q. That method of assessing the revenue has been abolished for some time?

A. Yes sir, since the beginning of this year.

Q. Mr. Hamilton included the Myrick coal item?

A. Yes sir.

Q. What other items have you going to make up the 25,000 or 30,000?

A. There is other coal besides Myrick; ties and rails. I believe there were considerable rails moved from the branch lines at that time to the branch lines beyond the Central Branch.

Q. What do you mean by "branch lines beyond the Central Branch"?

A. The Union Pacific and Nebraska do not belong to the Central Branch.

Q. Were the 6,000 tons of coal practically all the coal they shipped?

A. No sir. Southern Kansas, for instance, around about Mindon.

4890 Mr. HAGERMAN: I think possibly Mr. Hamilton and Mr. Roth can check up without any extended investigation, and find out that the main difference is made up of Company freight of that character.

Cross-examination.

By Mr. LADD:

Q. Doesn't the Missouri Pacific get money for carrying this freight?

A. No sir.

Q. Doesn't it get any money at all?

A. Not on that particular freight.

Q. Does it carry it for nothing?

A. It is carrying its own property.

Q. Suppose, the Missouri Pacific is carrying freight for the Central Branch; suppose the Missouri is carrying freight for the Iron Mountain; which is part of the Missouri Pacific system: isn't the Missouri Pacific entitled to pay for carrying that freight, and doesn't it get it?

A. No sir, it would not get it.

Q. Why shouldn't it have it?

A. It is all part of the system.

Q. Don't you keep your accounts separately? Doesn't the Missouri Pacific keep its accounts separate from the Iron Mountain?
A. Undoubtedly.
Q. And as between those two companies, isn't the Missouri Pacific entitled to pay for whatever it does for the Iron Mountain?
4891 A. That used to be our system of keeping the accounts, but we have changed that now, and do not do that any more.
Q. Just because it is your system of keeping the accounts?
A. That is the only reason.
Q. But, as a matter of fact, one company is entitled to pay for doing work for another company, isn't it?

Mr. HAGERMAN: That is objected to. The question is, whether it went into these earnings that we are taking as the basis of this case.

Mr. KENNISH: That is no reason why the Missouri Pacific is not entitled to what it earned.

Mr. LADD:

Q. Didn't it go into the earnings in Exhibit 5c?
A. No sir.
Q. Are you certain about that?
A. Absolutely. Your experts ought to have found that out. It shows on the face of our figures that it was deducted, in the detail.

Mr. LADD: I cannot see why, in a case of this sort, when it is a question involving the Missouri Pacific's earnings in Missouri, the Missouri Pacific should haul freight for a different railroad. That is very strange to me.

The MASTER: That may be one of the questions to be decided.

Mr. LADD: Mr. Roth is making an assumption, and is not certain. He "thinks" something may be the explanation. I suggest that Mr. Roth and Mr. Hamilton get together, with their
4892 papers on both sides, and find out where the difference occurs.

Mr. HAGERMAN: There is no objection on earth to that. I only suggested asking Mr. Roth while he was here. He and Mr. Hamilton may be able to report how this is accounted for.

The MASTER: It is ordered that unless Messrs. Hamilton and Roth, after conference, agree and send to the Master a paper, the result of such agreement, this case will be called for conclusion of the testimony on both sides, at the time of the calling of the Chicago, Burlington & Quincy Railway Company's case, at Kansas City, at our next meeting.

But, if such agreement is had, then this case stands as closed and submitted to the Master.

4892*a* KANSAS CITY, MO., *April* 17, '07.

Met pursuant to adjournment as above on Wednesday, April 17, 1907, in the Federal Building in Kansas City, Missouri.

Present: Honorable F. L. Schofield, Special Master.

Mr. Frank Hagerman appeared in behalf of the Complainant.

Attorney General Hadley and Mr. S. B. Ladd appeared in behalf of the Defendant.

The following proceedings were had:

A. C. TALIAFERRO, recalled, testified as follows in rebuttal:

Mr. HAGERMAN:

Q. Mr. Roth and Mr. Hamilton have checked up the tonnage at the Kansas City terminals dealt with in Exhibit 11*a* of Complainant, and in Mr. Hamilton's testimony, showing the total tonnage to be 436,089, but they did not check up how much of it was company material, because of the length of time it would take to do it. This shows freight, of all kinds, to or from or passing through Kansas City, and the lines to the north and northwest, is 169,319 tons, or 38.76 per cent.

Mr. TALIAFERRO: As we grouped it, we have 49.85 per cent as terminal proper business, and of that 5015 tons is business passing through the terminals.

Mr. HAGERMAN: We do not know what you mean by that.

A. The figure as shown in Exhibit 11*a* as Kansas City
4892*b* proper business included freight which was rebilled at this point.

Q. That is, in item 1 of Exhibit 11*a* the 250,000 odd tons included what you claim to be rebilled?

A. Yes sir.

Q. You think that ought to be stated?

A. Yes sir.

Q. And that rebilled stuff is how much?

A. 35,686 tons. We have classed that as business passing through.

Q. I think that has all been testified to. Mr. Hamilton gave his testimony upon that subject.

Is there anything else you want to observe for yourself about this? I want to try to get along without calling Mr. Roth back here. You have given me the figures about two items I wanted to ask him about. I think the rebilling was testified to by you before. Is there any other item you want to put in there?

A. That is all, I think.

Complainant here rests in rebuttal.

Defendant rests in sur-rebuttal.

The MASTER: Leave is given to the Complainant to designate such portions of the testimony of the witness, C. I. Sturgis given in the Burlington case, which he may desire to introduce in evidence in this case; counsel to furnish a specific reference to the stenographer to the pages of the record in the Burlington case where they are to be found, and which when found will be incor-
4892*c*-4894 porated as part of the testimony in this case.

Leave is given to the defendants, after having examined the references to the testimony on their part, to designate such parts of the testimony of C. I. Sturgis as they may desire, by direct reference to the pages, and hand same to the stenographer, which when received shall be incorporated into the evidence in this case, as before.

The evidence is closed.